

What about the FTX tokenized AMC shares? Did you address those? How did your son who was an FTX investor not know about these??

@CEOAdam

what about ANY AMC tokenized security and NOT just the one you mention? Did you intentionally do this? Or, didn't know about it and the COO did it with his daughter without your approval?

Here you are fighting a token, while the owners of AMC are getting fleeced of their shares. Good job.

Of course he'll tweet about this and "fight". But not a word or any action against the corruption used to manipulate the stock price down.

363. AMC stockholders have yet to receive notice regarding what actions Aron meant or has taken in the fight, as he mentioned, "We are fighting them hard. Don't be fooled!" The specific details of this fight or the measures implemented by Aron remain undisclosed to the stockholders.

364. By April 2022, Derek Van Zandt had a "storyboard draft," which included a video of Aron explaining the potential Preferred Equity Units (APE) rights offering. At the time NFTs were a hot commodity. To entice AMC stockholders to participate, Derek Van Zandt incorporated three different NFTs (Gold, Platinum, and Black) exclusively available to participants in the rights offering, with variations based on the number of Preferred Equity Units purchased.<sup>133</sup>

365. "On May 4<sup>th</sup>, 2022, the AMC Board met, and Aron "briefed the board on AMC's preferred stock right's offering plans during executive session." The Board minutes do not reflect any specifics concerning Aron's briefing."<sup>134</sup>

366. On May 6<sup>th</sup>, 2022, at 1:12 pm EST, Ms. Blackwood tweeted out the following message to AMC Theatres and Aron,

" @CEOAdam  
@AMCTheatres

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<sup>133</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 34 pages 887-912

<sup>134</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 90.

sry to break it u but adam is too busy with a fist up his a\$\$  
(literally) to care abt the investors that saved this company  
\$AMC”<sup>135</sup>

367. On May 17<sup>th</sup>, 2022, at 8:31 pm, Geoffrey Weinberg drafted an email with the subject matter titled: RE: AMC- Preferred Issuance, and addressed the email to AMC’s two in house attorneys, Kevin Connor and Eddie Gladbach, while cc’ing outside attorneys, Mercedes Taitt-Harmon, Corey Chivers and Michael Stein, and his colleague at DF King, Krystal Scrudato.<sup>136</sup>

368. Geoffrey Weinberg’s May 17<sup>th</sup>, 2022 email reads:

“Kevin –

As discussed, **for the preferred structure to be successful, the votes cast must be at least 50% + 1 FOR.** This is effectively a majority of votes cast standard and a much lower threshold than our previous voting standard of majority of shares outstanding where we required FOR votes from 50% + 1 of the entire shareholder base, not just those that actually vote. From there, the question becomes the likelihood that we would receive support from a majority of votes cast.

Due to (i) the fact that institutional shareholders do not like to vote until just prior to the meeting and (ii) that both previous votes were pulled at least a week prior the meeting, our analysis is focused on (a) the vote up until the day that the proposal was withdrawn, (b) certain assumptions for how the routine vote (as discussed below) would have been applied, and (c) how the shareholder base has changed since last year.

Based upon last year’s voting, incorporating the estimated routine vote that would have been applied, the votes cast would have been ~56% FOR prior to the institutions voting, with a ~31.5mn vote difference between FOR and against. Based upon certain assumptions of what institutional shares would have been voted after the proposal was withdrawn, taking a conservative approach, an additional 10Mn FOR votes would have been added, increasing the FOR % to 57.7% and the vote difference to 41.5mn shares.

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<sup>135</sup> Sakoya Blackwood on X (formerly called twitter). May 6<sup>th</sup>, 2022. X.com  
Link: <https://twitter.com/TwoTruth1/status/1522625473196478469>

<sup>136</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 20 pages 830-831



We start with an advantage in achieving a majority of votes FOR as NYSE should consider this proposal a “routine proposal” – this means that brokers that still maintain their discretionary voting authority will apply that voting authority to vote their customers’ uninstructed accounts.

These vote in two different ways:

- Discretionary voting - where brokers will vote any uninstructed shares with management’s recommendations; ~64mn shares as of the latest available data, of which we would anticipate splitting 53mn FOR / 11mn against based upon previous voting patterns.
- Proportionate voting - where brokers will vote any uninstructed shares in the same proportion that their instructed shares were voted (e.g., Broker X has 10mn customers’ shares, 2mn vote, 1mn of the 2mn that vote, vote FOR - the remaining 8mn uninstructed shares are voted 50 / 50 FOR and against); ~103.5mn shares as of the latest available data, of which we would anticipate splitting 27.4mn FOR / 76.1mn against based upon previous voting patterns.

Since the July 2021 vote, the shareholder base has changed as follows:

- Institutional custodial holdings have increased by ~27.4mn shares; these tend to vote in favor of the proposal and participate as well (net positive)
- Discretionary custodial holdings have decreased by 14.2mn shares; we will no longer automatically receive those positive votes at an 80%+ rate (net negative)
- Proportionate custodial holdings at NFS (Fidelity) have increased by ~24mn shares; these new shares will be voted proportionately to how the rest of NFS’ instructed shares vote. Last year these groups of shares voted 29% FOR (net negative)
- Friendlier partner custodial holdings (e.g., Goldman, MLPS, etc.) decreased by ~12.5mn shares, those custodians proportionate overwhelmingly in favor of the proposal last year (net negative)

Based upon certain assumptions, including the likely number of shares actually voted by the index funds due to stock loan, we would expect approximately with the same retail voting FOR rate of 28.06% and retail participation of 27% (compared to 25.11% at the time the July proposal was withdrawn), before applying any additional institutional votes outside of the index funds, Geode and Northern Trust, there would be a voting spread in favor of the proposal of ~5mn shares with the votes cast split at 51.11% FOR & 48.89% against. This provides a ~44% quorum as compared to a ~53% quorum at the July meeting, implying another 47mn shares unaccounted for largely negated by the combined ~36.5mn shares that will not automatically be voted via decreases at discretionary and proportionate voting custodians.

As can be seen in the movement referenced above, especially at NFS, this analysis is based upon a moving target due to the volume and volatility of the

shareholder base. With certain assumptions I believe that the unaccounted-for shares referenced above would more likely than not be favorable shares through hedge funds and institutions, and when combined with certain campaign strategies that would be altered to account for the lower voting threshold, this campaign would ultimately be successful. At the same time, it is worth noting that at the original May meeting, using a combined average of the top retail custodians (TD, NFS, Robinhood, Schwab and Apex) as a proxy for the retail vote, retail voted FOR at 33.5%. At the July meeting, this same group voted FOR at 28.06%. Based on the high-level analysis mentioned, if the retail FOR vote moves to 26.5% or below, the initial ~5mn share advantage disappears. If helpful, attaching the latest ownership report based upon the 13F data that came due this week.

Let me know (sic) any questions. Happy to discuss.

Thanks,  
Geoff <sup>137</sup>

369. From the perspective of DF King and AMC, as outlined in the May 17<sup>th</sup>, 2021 Weinberg email, "for the preferred structure to be successful" would involve the conversion of APE back into AMC even before APE was distributed to stockholders. Notably absent from the email is any mention of a strategy to raise capital effectively or to address debt repayment.
370. Notwithstanding Aron's rosy public statements about AMC's financial outlook, by no later than mid-May 2022, AMC's executives were exploring giving APEs special voting powers that could be maneuvered so management could force amendment of its Certificate.
371. On May 19<sup>th</sup>, 2022, at 6:04 pm, Kevin Connor, drafted an email with the subject titled: AMC- Preferred Issuance, and cc'd Adam Aron and Eddie Gladbach, and emailed John Merriwether and Sean Goodman stating,

"Sean / John (and copying Adam),

Further to my note to you on May 9 and per the below we continue to explore with Weil/DF King a **unique dividend structure that might allow us to authorize more common stock (redacted information)**. Since I sent my prior note, we have checked with DE counsel and (redacted information). **We also checked with the NYSE and to my surprise they have no objection.** The tricky part now is determining whether if we implemented something similar to

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<sup>137</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 20 pages 830-831



effect share authorization – would the vote carry? Per the below, Geoff at DF King has indicated he thinks the campaign would pass. I am going to set up a call for Sean, John, Eddie and I to speak with Geoff to hear Geoff's thoughts. We will challenge his assumptions a bit and get back to Adam as appropriate. Per Adam's note, not spending a lot of legal on this and Geoff is free. Sensitive to Adam's concerns that the stockholder base might react negatively and that it might collide with our CSE offering. Balancing that sentiment against the prospect of authorizing and selling some shares at \$10+/share late summer. Thanks and call or write with questions or comments.

Kevin 8166992542”<sup>138</sup>

372. Kevin Connor's May 19<sup>th</sup>, 2022 email, proves that the purpose of the "unique dividend structure" **was aimed at facilitating the issuance of more common stock, rather than focusing on debt repayment or restructuring.**

373. On May 25<sup>th</sup>, 2022 “Brian” messaged Aron, “Journalists reaching out to me now!”<sup>139</sup>

374. On May 25<sup>th</sup>-26<sup>th</sup>, 2022, AMC's advisor, B Riley Financial, hosted their 22nd Annual Institutional Investor Conference in Beverly Hills, California, and both John Merriwether and Sean Goodman attended the event.

375. Two days later, on May 27<sup>th</sup>, 2022, at 1:40 pm, Jon Merriman from B. Riley Financial, drafted an email with the subject titled: super voting pref, and cc'd his colleagues Patrice McNicoll and Layne Rissolo, and his attorneys at Duane Morris, Dean Colucci and James Seery, and emailed John Merriwether and Sean Goodman stating,

“Sean, John – great to see you guys this week – thank you so much for coming to our event. Sean I hope you didn't have equal drama on the way home – what a story! Suggest we get on a call with the lawyers next week and talk on this structure. **Then you and your team can get with the NYSE and see if this could work for AMC.** In the meantime Layne would you please send the Nasdaq precedents. Copied our counsel at DM (Duane Morris) who has helped us here. Suggest Tuesday at 10EST to start.

Great weekend everyone!

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<sup>138</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 20 pages 829-830

<sup>139</sup> Sakoya Blackwood's Sentencing Memorandum



Jon Merriman”<sup>140</sup>

376. Approximately four hours later, at 5:58 pm, Jon Merriman drafted another email with the same subject title: super voting pref, and cc'd his colleagues Patrice McNicoll and Layne Rissolo, and his attorneys at Duane Morris, Dean Colucci and James Seery, and emailed John Merriwether and Sean Goodman stating,

“Weekend reading – talk soon

Jon Merriman”<sup>141</sup>

377. Attached to Jon Merriman’s 5:58 pm email were prospectuses from the three issuers listed on Nasdaq that utilized super voting preferred shares to force through certificate amendments. The issuers were:

- Agile Therapeutics Inc (ticker symbol AGRX)
- Avinger Inc (ticker symbol AVGR)
- OpGen Inc (ticker symbol OPGN)

378. Jon Merriman’s May 27<sup>th</sup>, 2022, 1:40 pm and 5:58 pm email thread, is one of the most inculpatory emails. Jon Merriman gives John Merriwether and Sean Goodman notice that his firm and his attorneys have already set precedent for three stocks listed on Nasdaq, with ticker symbols AGRX, AVGR, and OPGN. Since AMC is listed on the NYSE and no precedent has been set on the NYSE, Jon Merriman suggests to John Merriwether and Sean Goodman that **“we get on a call with the lawyers next week and talk on this structure”** then **“you and your team can get with the NYSE and see if this could work for AMC.”**

379. The decline in value experienced by AGRX, AVGR, and OPGN from the release of the preferred shares until November 2023, exceeding 90%, is significant. Even when comparing the period from the launch of the preferred shares until Jon Merriman’s May 27<sup>th</sup>, 2022 notice email to John Merriwether and Sean Goodman, the stocks’ values of AGRX, AVGR, and OPGN all plummeted by over 50% and continued on a downward spiral. The actions taken on these tickers, including the implementation of a convertible preferred stock and multiple reverse splits, ultimately destroyed shareholder value.

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<sup>140</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 19 page 827

<sup>141</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 19 page 827

380. Jon Merriman's May 27<sup>th</sup>, 2022, 5:58 pm email is also direct evidence that AMC and Riley Financial were engaged in ongoing discussions and were aware in advance that moving forward with the AMC preferred share (and reverse split) scheme would result in a significant and detrimental impact on stockholder value. Given the similarities in the massive loss of stockholder value between the stock tickers OPGN, AGRX, AVGR, and AMC, it is clear that AMC, D.F. King, Riley Financial and Citigroup Global Markets Inc. colluded to run an intentional controlled demolition scheme that had been run before (OPGN, AVGR, and AGRX) to hurt AMC stockholders stock value.

381. On May 31<sup>st</sup>, 2022, at 11:27 pm, Kevin Connor, drafted an email with the subject titled: FW: AMC- Preferred Issuance, and cc'd Eddie Gladbach, and John Merriwether, and emailed Sean Goodman stating,

“Sean,

Seems like we should get this in front of Adam as discussed at end of call this morning. Should we do this on a standalone basis, or in conjunction with an update call on CSE? Probably the latter, as it seems like we would do one or the other, but perhaps not both. Question then becomes at what point we want to let Citi know we are pondering another share authorization vote, including one that might displace the CSE. Since B Riley has thoughts about a share authorization mechanic I suspect Citi might as well. Will give you a call at your convenience today to discuss. Let me know a good time.

Thanks,

Kevin”<sup>142</sup>

382. Attached to Kevin Connor's May 31<sup>st</sup>, 2022 email was an excel sheet named Institutional Investor Ownership Report AMC\_May 17 2022.

383. On June 15<sup>th</sup>, 2022, at 6:19 pm EST, Aron tweeted out the following to AMC stockholders who have continuously demanded a share count with respect to how many AMC shares are out in circulation as opposed to outstanding,

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<sup>142</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 20 page 829

**“Inbound tweets ask over and over for a “share count.” AMC has done a share count 6 times in the past year. We know of 516.8 million AMC shares. Some of you believe the count is much higher. As I’ve said before, we’ve seen no reliable info on so-called synthetic or fake shares.”**<sup>143</sup>

384. Following Aron's June 15<sup>th</sup>, 2022 Tweet, hundreds of AMC shareholders expressed their frustration through tweets, highlighting Aron's abject failure to address the crucial question regarding the total number of AMC shares in circulation. Several shareholders conveyed their concerns and messages emphasizing this issue:

**“Why have you not hired an attorney to look into counterfeit shares and short and distort techniques by hedge funds along with the millions of other stock manipulation tactics going on? The time to pounce is now before you lose the retails trust!”**

**“VOTE let the share holders vote on if we do a share count or not..”**

**“Nobody knew Madoff was running a Ponzi scheme right up until he was caught! It would be interesting to know how you came to the conclusion. What investigation was done? Have you really even tried to sniff out the fake counterfeit shares?”**

**"So called"...I think it's time for you to stop "saving face" and protect your loyal investors.”**

385. At the June 16<sup>th</sup>, 2022 annual meeting of stockholders,<sup>144</sup> AMC stockholders resoundingly rejected, in a non-binding vote, Aron’s compensation package:

**Proposal 3: Non-Binding Advisory Vote on Executive Compensation**

Stockholders failed to approve, on a non-binding advisory basis, the compensation paid to our named executive officers.

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<sup>143</sup> CEO Adam Aron on X (formerly called twitter). June 15<sup>th</sup>, 2022. X.com  
Link: <https://twitter.com/CEOAdam/status/1537198182098251777>

<sup>144</sup> SEC Form 8-K. AMC. June 17, 2022. Link:  
<https://www.sec.gov/Archives/edgar/data/1411579/000155837022010100/amc-20220616x8k.htm>



| For        | Against    | Abstain   | Broker Non-Votes |
|------------|------------|-----------|------------------|
| 52,148,743 | 86,896,550 | 5,917,972 | 123,812,644      |

386. On June 21<sup>st</sup>, 2022, Ms. Blackwood began sending text messages to Aron from another VoIP number, purporting to be a reporter from Vanity Fair (the “Vanity Fair Reporter”). The Vanity Fair Reporter referenced having seen texts and images (“I was shown some images and I was wondering if you’re available to speak” and “I was also shown text conversation with the accompanying images and my source claim the woman was underage at the time of the initial affair”).<sup>145</sup>

387. On June 24<sup>th</sup>, 2022, the United States Congress published the GameStop Report.<sup>146</sup> The January 2021 Meme Stock squeeze and turning off of the buy button events prompted the U.S. House Committee on Financial Services to hold several hearings to investigate the circumstances and implications of these market events. The hearings sought to understand the reasons behind these actions and whether hedge funds and brokers disadvantaged retail investors to save themselves. There was significant controversy over the decision by Robinhood and several other brokers to restrict trading in the volatile stocks at the peak of the market frenzy.

388. According to the congressional findings, there is evidence to suggest that Ken Griffin, the CEO of Citadel, lied during his testimony to Congress regarding the GameStop short squeeze. During the hearing, Representative Maxine Waters (D-CA) and others questioned Griffin about whether Citadel had “any role in the restrictions that Robinhood and other brokers put on retail investors.” Griffin responded: “Absolutely not. We had no role in Robinhood’s decision to limit trading in GameStop or any of the other ‘meme’ stocks.” However, it was later discovered in internal messages between Robinhood and Citadel that this statement was factually inaccurate, and Griffin had, in fact, appeared to have perjured himself.

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<sup>145</sup> Sakoya Blackwood’s Sentencing Memorandum

<sup>146</sup> The GameStop Report: “Game Stopped: How the Meme Stock Market Event Exposed Troubling Business Practices, Inadequate Risk Management, and the Need for Regulatory and Legislative Reform”. Released by the United States House of Representatives Committee on Financial Services, Congresswoman Maxine Waters (D-CA), Chairwoman of the Committee on Financial Services, and Congressman Al Green (D-TX), Chair of the Subcommittee on Oversight and Investigations. Released June 24, 2022. Note: Communications regarding Robinhood and Citadel are presented as figures in the GameStop report (see Exhibit E). Link: <https://democrats-financialservices.house.gov/news/documentsingle.aspx?DocumentID=409578#:~:text=%E2%80%99CThe%20GameStop%20report%20is%20the,the%20current%20market%20regulatory%20structure>

**The Project Popcorn Scheme Pivots from a Shareholder Rights Offering (Zero Dilution if stockholder exercises their rights) to an ATM (Outright Dilution)**

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389. On July 20<sup>th</sup>, 2022, Sean Goodman sent a memorandum<sup>147</sup> to the Board concerning the Preferred Stock and APEs. It details the proposal, **and notes for the first time that AMC planned to sell APEs in an ATM offering:**

“We plan to raise additional equity capital through an At-the-Market offering of Preferred Equity Units. **The amount and timing will be determined based on market conditions and strategic opportunities. We are ready to act quickly.**”<sup>148</sup>

390. In Sean Goodman’s Memorandum, he acknowledged that “[i]ndex funds that own AMC common shares will likely be required to sell the Preferred Equity Units, while this may put pressure on the value of the Preferred Equity Units, lower index fund ownership also means less shares available for short sellers to borrow and this could have an offsetting positive impact on the trading value of the Preferred Equity Units.”

391. On July 21<sup>st</sup>, 2022, at 12:33 pm, John Merriwether drafted an email with the subject titled: Citi Questions – PEU ATM, with Kevin Connor and Eddie Gladbach cc’d, and the email addressed to Sean Goodman stating,

“Gentlemen,

Derek called me after the call with a few logistical questions regarding the S-3 and ATM plans.

- (first bullet point redacted)

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<sup>147</sup> The memorandum is dated July 20<sup>th</sup>, 2022, but was produced as part of July 25<sup>th</sup>, 2022 compensation committee materials and July 28<sup>th</sup>, 2022 Board materials. It is unclear whether the Board members saw it prior to the respective meetings.

<sup>148</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 35 pages 914-915

- There had been some discussions about how many PEU's we would register and 1B was discussed (517M for the dividend and then the remainder for the ATM). **Are we in agreement that the number is 1B? There is a sweet spot somewhere that doesn't raise the shareholders' ire about dilution but also gives us the flexibility to raise the capital we want. I think we will get ire no matter what the number is, so does it make sense to get the ire out all at once at 1B.**

Thanks,  
John”<sup>149</sup>

392. John Merriwether's July 21<sup>st</sup>, 2022 email depicts that the AMC Board was careful not to introduce an excessive number of APEs initially, considering the potential backlash and resistance from retail stockholders regarding their strong dilution concerns. This calculated approach was designed to manipulate and convince stockholders to accept the "poisoned apple" they were being offered by their "Silverback"- Aron.

393. Sean Goodman contemporaneously replied to John Merriwether's email, with Kevin Connor and Eddie Gladbach cc'd, stating,

“Thanks John,

I think 1B makes sense. Defer to the lawyers regarding the S-3.

Sean”<sup>150</sup>

394. Like on January 27<sup>th</sup>, 2021, Sean Goodman's July 21<sup>st</sup>, 2022 response email notably lacked any attachments, such as an Excel sheet or a document to indicate that any financial analysis was performed, providing support or clarification on the rationale behind registering 1 billion shares.

395. On July 22<sup>nd</sup>, 2022 at 7 pm CST, Aron held a meet-and-greet event at AMC River East 21 in Chicago, Illinois for a special screening of the movie “NOPE”. Before the movie started,

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<sup>149</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 21 page 833

<sup>150</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 21 page 833



Aron addressed the AMC stockholders that were sitting in the crowd. Seven minutes into his speech, Aron discussed the events of January 27<sup>th</sup>, 2021. He states in part:

“On the Wednesday January 27<sup>th</sup> of last year, our stock went from five dollars a share to twenty dollars a share in one day. And we traded, on the New York Stock Exchange... uh more shares than I know how to count .... uh at the time we had 100 million shares outstanding - total share count. And 50 million of them were in the pocket of one large institutional holder who was not trading the stock. So we really only have 50 million shares that traded. On that one day that day that our stock quadrupled, that one day, we traded 1 billion 250 million shares in a day. We only have 50 million shares that traded at all, and they turned over like 25 times. That's like every 15 minutes the whole shareholder base of the company is a new shareholder base of the company.”<sup>151</sup>

396. On July 25<sup>th</sup>, 2022, AMC Board's compensation committee met concerning adjustments that would need to be made to equity awards under AMC's long term incentive plan to account for the APEs. The Compensation Committee approved the required adjustments, which provided that APEs could be issued under the plan.

#### EIP - Preferred Equity Unit Dividend Adjustment

- The Preferred Equity Unit Dividend is expected to have the effect of reducing the economic value of the shares of AMC's common stock, similar to a stock split
  - For simplicity, assume the reduction in value is 50%
- Each share of common stock previously vested and issued under the EIP will automatically receive one preferred equity unit as part of the dividend
- However, without adjustment, all outstanding unvested RSU/PSU awards will have their potential value reduced
  - Each RSU/PSU = 1 share of Common Stock upon vesting
- Example: Participant with 2,000 RSUs & common stock price of \$17.00 (pre-dividend)
  - Before Dividend: Potential on Vesting = \$34,000 FMV common stock
  - After Dividend: Potential on Vesting = \$17,000 FMV common stock

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<sup>151</sup> Adam Aron Chicago. Youtube Video of Aron's July 22, 2023 Meet and Greet in Chicago. Video posted on July 23, 2022. See the 7:36 mark in the video for this quote. Link: <https://www.youtube.com/watch?v=BHOftbZUh5Y>  
Secondary Link on the Mathew Affholter Vs Defendants youtube page: <https://www.youtube.com/watch?v=usc3V0bSb3A>

397. On July 26<sup>th</sup>, 2022, “Brian” messaged Aron and said, “A porn site just reached out to me looking for the pics.”<sup>152</sup>

398. On July 27<sup>th</sup>, 2022, Aron wrote the AMC Board, touting the APEs as

“the single most impactful action that AMC will take in all of calendar year 2022,” giving AMC a new currency to pay down debt and “avoid any future liquidity traps.”<sup>153</sup>

399. On July 28<sup>th</sup>, 2022, the full AMC Board took its first steps, in thwarting the AMC stockholder franchise, by diluting the Common Stock through an abusive “blank check” preferred stock issuance via an ATM. At an AMC Board meeting that day,

“Aron indicated that AMC needed to raise more capital but was out of common shares. He mentioned visiting with a 1980’s financier that explained that AMC arranging for a second currency could be transformative; even more so than issuing a dividend.”<sup>154</sup>

400. Aron also “noted that AMC had 50M shares of preferred stock and that by employing a 100-1 gearing concept Company could issue one preferred equity unit for each of Company’s 517M common shares outstanding.”<sup>155</sup>

401. The AMC Board also discussed concerns it had regarding the response of retail investors to the proposed dividend, with “Pawlus not[ing] that retail shareholders had historically expressed concerns about dilution [and] . . . inquir[ing] how Company planned to address those concerns.”<sup>156</sup>

402. The AMC Board discussed how it could “handl[e] that question with candor including through tweets and with social media, recognizing that should Company subsequently pursue ATM offerings that those offerings would be dilutive.”<sup>157</sup> Given the Company’s public

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<sup>152</sup> Sakoya Blackwood’s Sentencing Memorandum

<sup>153</sup> Condensed citation: C.A. 2023-0215-MTZ Daniel Myers Affidavit (D.I. 322) exhibit 22, pages 834-837

<sup>154</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 93.

<sup>155</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 94.

<sup>156</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 95.

<sup>157</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 96.



descriptions of APEs and the Deposit Agreement, **the desire to be candid appears to have been more aspirational than actual.**

403. “At the meeting, the AMC Board also reviewed an updated presentation prepared by Citi, which included an overview of the Preferred Stock and APE dividend.”<sup>158</sup>

404. “At the end of the meeting, the AMC Board then adopted resolutions implementing the Preferred Stock and APEs.”<sup>159</sup>

405. “The AMC Board created the new form of Preferred Stock and authorized 10,000,000 such shares. Each share of Preferred Stock carries voting rights equal to 100 shares of Common Stock, and automatically converts into 100 shares of Common Stock upon stockholder approval of an amendment to the Certificate to increase the total number of Common Stock shares authorized sufficient to permit the conversion and the filing of such an amendment with the Office of the Secretary of State of the State of Delaware.”<sup>160</sup>

406. “The AMC Board also approved a Preferred Stock dividend to be issued on each outstanding share of Common Stock in the form of APEs, which were depositary shares, each representing a 1/100 interest in a share of Preferred Stock. Each APE has voting rights equal to one share of Common Stock and is convertible into one share of Common Stock if stockholders approve an increase to the total number of shares of Common Stock authorized under the Certificate.”<sup>161</sup>

407. “Finally, the AMC Board authorized the Company to enter into the Deposit Agreement with Computershare, whereby Computershare would act as the depositary of the APEs. Under the terms of the Deposit Agreement, in connection with any stockholder vote at which holders of Preferred Stock are entitled to vote, Computershare would vote shares of Preferred Stock as instructed by their holders. However, with respect to APEs (and, by extension, Preferred Stock) that are not present or for which voting instructions are not given, which otherwise would be treated as broker non-votes, Computershare will vote those units proportionally in the same manner as APE units for which holders do give specific voting instructions.”

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<sup>158</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 97.

<sup>159</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 98.

<sup>160</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 99.

<sup>161</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 100.



408. “In other words, while absentee and uninstructed common shares are effectively negative votes in the context of any amendment of the Certificate requiring a majority of all outstanding shares to pass, the “mirror-voting” feature in the Deposit Agreement will turn absentee and uninstructed APEs into votes proportional to the actual votes cast—regardless of whether shares of Common Stock could be voted on the same proposal absent the receipt of instructions from beneficial holders. Thus, as long as more APEs vote for a charter amendment than against it, the proposal will be far more likely (and perhaps assured to pass. That agreement was executed on August 4, 2022.”<sup>162</sup>

409. “The mirrored voting procedures for shares of Preferred Stock corresponding to absentee and uninstructed APEs were not specifically disclosed to AMC stockholders, who would have had to painstakingly search through the Deposit Agreement to find them. Nor did AMC’s disclosures instruct common stockholders to hold onto their APE units to protect themselves from the dilution that would come from aggressive APE issuances followed by an effort to massively alter AMC’s authorized share count.”<sup>163</sup>

410. On July 28<sup>th</sup>, 2022, at 2:58 pm, John Merriwether drafted an email with the subject titled: Shareholder Voting Info, and the email addressed to Eddie Gladbach stating,

“Hey Eddie,

Sean is looking for voting data for when we were trying to get shares authorized, I know Geoffrey Weinberg is no longer with DF King, but I was wondering if you would happen to have voting results on authorization? He’s trying to see if for those that voted, were they voting yes for the authorization? My recollection was they were not, and I will also look back in my emails to see what I can find.

Thanks,  
John”<sup>164</sup>

411. A little over an hour later, Eddie Gladbach responded to John Merriwether’s July 28<sup>th</sup>, 2022 email stating,

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<sup>162</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 102.

<sup>163</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 103.

<sup>164</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 26 page 852

“This appears to be the last tally before we pulled the proposal for the second meeting. Similar outcome to the first time.

Eddie”<sup>165</sup>

412. Attached to Eddie Gladbach’s email was a pdf file with the following name – AMC Vote Summary AM 7.29.2021.

**On August 4<sup>th</sup>, 2022 AMC Announces the Creation of APEs**

413. On August 4<sup>th</sup>, 2022, AMC announced that it was creating a new class of securities known as AMC Preferred Equity units (called “APE(s)” as an homage to its retail investor base) to be issued initially to existing holders of the Company’s common stock as a special dividend, at the close of business on August 15<sup>th</sup>, 2022, the record date. In February 2022, Citigroup proposed labeling these rights as “AMC Preferred Equity Units” or “APEs”. The choice of this name was deliberate, and explicitly appealed to the existing “APE movement”. The ex-dividend date for the APEs was August 22<sup>nd</sup>, 2022. AMC further announced that APEs would be traded on the NYSE under the symbol “APE” starting August 22<sup>nd</sup>, 2022.

414. “Because the AMC Board had authorized 1 billion APEs and the dividend would only cover 516,820,595 APEs—i.e., a number equal to the number of shares of Common Stock issued and outstanding on August 15<sup>th</sup>, 2022—approximately 483.2 million APEs would be categorized as authorized but unissued units on AMC’s balance sheet.”<sup>166</sup>

415. In a tweet issued by Aron on the same day, he described the move as playing “3-D chess” in a series of tweets:

“1. In this important “Tweetstorm,” a dozen messages explain a bold step. In addition to releasing today our handsomely improving second quarter 2022 earnings, we also broke out the 3-D chess board and got creative. A big move that addresses so many of your asks. TODAY...WE...POUNCE”<sup>167</sup>

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<sup>165</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 26 page 852

<sup>166</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 105.

<sup>167</sup> CEO Adam Aron on X (formerly called twitter). August 4<sup>th</sup>, 2022. X.com Link<https://twitter.com/CEOAdam/status/1555288043317350406>



“2. Q2 AMC results very encouraging. Revenue two and a half times Q2 ‘21 and positive Adj. EBITDA, an enormous improvement over Q2 ‘21. As promised, it is time to take bold action. An AMC Preferred Equity dividend to holders of common shares. Read this OPEN LETTER. #TodayWePounce”<sup>168</sup>

“6. Candidly I’ve seen no evidence so-called fake or synthetic shares exist. But many of you disagree. This preferred equity dividend goes ONLY to company issued shares. **So, it will have the impact of a “share count” or unique dividend many of you have sought.** #TodayWePounce”<sup>169</sup>

“12. I must tell you all. It is complicated, but it really is satisfying to play 3-D chess, especially if you know how to play it well. Today AMC Entertainment announced both vastly improved earnings and our game-changing new APE securities. #TodayWePounce”<sup>170</sup>

416. On August 4<sup>th</sup>, 2022, AMC filed a Certificate of Designations (the “Certificate of Designations”) with the Secretary of State of the State of Delaware, which designated 10,000,000 shares of the Company’s authorized preferred stock as Series A Convertible Participating Preferred Stock (previously defined as the “Preferred Stock”). The Certificate of Designations had the effect of amending the Company’s charter under Delaware law.<sup>171</sup>

417. The Certificate of Designations provided that the AMC Board, by resolution adopted on July 28<sup>th</sup>, 2022, authorized the Preferred Stock and established a Pricing Committee to determine the final terms of the Certificate of Designations. On August 4<sup>th</sup>, 2022, the Pricing Committee approved the final terms of the Certificate of Designations. Each Preferred Share was designed to be equivalent (in economic and voting rights) to 100 Common Shares. Each AMC Preferred Equity Unit (“APE”) is a depositary share and represents an interest in one one-hundredth (1/100th) of a share of Preferred Stock. Thus, each APE was designed to have the same economic and voting rights as 1 share of Class A common stock. Each APE was entitled to 1 vote on all matters AMC’s stockholders could vote on as a single class. Subject to approval of all stockholders, the APEs were convertible to Class A common stock provided

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<sup>168</sup> CEO Adam Aron on X (formerly called twitter). August 4<sup>th</sup>, 2022. X.com  
Link: <https://twitter.com/CEOAdam/status/1555302374096474114>

<sup>169</sup> CEO Adam Aron on X (formerly called twitter). August 4<sup>th</sup>, 2022. X.com  
Link: <https://twitter.com/CEOAdam/status/1555303048989364227>

<sup>170</sup> CEO Adam Aron on X (formerly called twitter). August 4<sup>th</sup>, 2022. X.com  
Link: <https://twitter.com/CEOAdam/status/1555325467317751810>

<sup>171</sup> THIRD AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF AMC ENTERTAINMENT HOLDINGS, INC. August 4, 2022. SEC.gov. Link: [https://www.sec.gov/Archives/edgar/data/1411579/000110465913092001/a13-26957\\_1ex3d1.htm](https://www.sec.gov/Archives/edgar/data/1411579/000110465913092001/a13-26957_1ex3d1.htm)



there was sufficient authorized but unissued shares of Class A common stock to support such a conversion (which there was not at the time the Preferred Stock was created).

418. The APEs are evidenced by a depositary receipt pursuant to a Deposit Agreement (the “Deposit Agreement”) among the Company, Computershare Inc. and Computershare Trust Company, N.A., collectively acting as depositary and conversion agent (together, the “Depositary”).

419. AMC deposited the underlying shares of the Preferred Stock with the Depositary pursuant to the Deposit Agreement. The Deposit Agreement contained a unique voting provision that the AMC Board failed to sufficiently disclose—not reflected in the Certificate of Designations—that requires the Depositary to vote all of the Preferred Stock represented by the APEs regardless of whether all of the APE holders actually cast a vote (previously defined as the “Depositary Voting Requirement”). Specifically, the Deposit Agreement provided in relevant part as follows:

In the absence of specific instructions from Holders of Receipts, the Depositary will vote the Preferred Stock represented by the AMC Preferred Equity Units evidenced by the Receipts of such Holders proportionately with votes cast pursuant to instructions received from the other Holders.

**This would allow the AMC Board to dictate the outcome of any proposal, as long as they could entice holders of APEs to support amending the Certificate.**

420. AMC included this provision in the Deposit Agreement because it knew the impact of the provision would artificially inflate the voting power of the APEs, and remove voting control entirely from the Class A common stockholders.

421. “AMC also issued APE FAQs in which it claimed that APEs were “designed to have the same economic value . . . [and] voting rights as a share of” Common Stock. AMC further claimed:

Are the AMC Preferred Equity units convertible into common stock? If so, when?

- Technically yes, the AMC Preferred Equity units can convert into common stock, but only if the AMC Board proposes and then investors vote to approve an increase in the number of authorized shares of common stock, in an amount at least sufficient to permit the conversion of the AMC Preferred Equity units into common stock.

- However, we do not currently expect the AMC Board to make such a proposal any time soon.
- It is more likely than not that the two securities, the common stock and AMC Preferred Equity units will trade as two separate securities for quite some time to come.””<sup>172,173</sup>

422. The AMC Board also told stockholders that they should not worry about dilution of the Common Stock:

“Is there any common stock dilution due to the AMC Preferred Equity unit dividend?

- The number of shares of common stock outstanding (516,820,595) remains unchanged as a result of the distribution of the AMC Preferred Equity units.
- In addition to the 516,820,595 shares of common stock outstanding on August 19, 2022, an additional 516,820,595 AMC Preferred Equity units will become outstanding on the ex-dividend date of August 22, 2022.
- Therefore, because these APEs are all going, and only going, to existing shareholders, there is no dilution from this initial APE dividend.
- Dilution occurs only when the AMC Board decides that the Company should issue additional AMC Preferred Equity units in the future. AMC expects that it will decide to issue more APEs with the express purpose of debt reduction or repayment, along with other potential uses for additional APEs as has previously been communicated publicly.”<sup>174</sup>

423. The AMC Board had already intended to seek an increase in the number of shares of Common Stock when it approved the APE dividend. Rather than disclose that information, however, the AMC Board affirmatively misrepresented its intentions to stockholders and downplayed any imminent dilution risk.

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<sup>172</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 107.

<sup>173</sup> AMC Preferred Equity unit (“APE”) Dividend Frequently Asked Questions (FAQs). August 2022. SEC.gov. Link:

[https://www.sec.gov/Archives/edgar/data/1411579/000110465922092397/tm2223780d1\\_ex99-1.htm](https://www.sec.gov/Archives/edgar/data/1411579/000110465922092397/tm2223780d1_ex99-1.htm)

<sup>174</sup> AMC Preferred Equity unit (“APE”) Dividend Frequently Asked Questions (FAQs). August 2022. SEC.gov. Link:

[https://www.sec.gov/Archives/edgar/data/1411579/000110465922092397/tm2223780d1\\_ex99-1.htm](https://www.sec.gov/Archives/edgar/data/1411579/000110465922092397/tm2223780d1_ex99-1.htm)

424. In the APE FAQs, the AMC Board did not inform stockholders that uninstructed APEs would be voted on a proportional basis by Computershare or that holders of APEs who do not even attend a meeting would still see their APEs voted by Computershare.

425. Finally, AMC predicted that:

“Because the AMC Preferred Equity unit is designed to have the same economic value and voting rights as a share of common stock, in theory, the common stock and AMC Preferred Equity unit should have similar market values and the impact of the AMC Preferred Equity unit dividend should be similar to a 2/1 stock split.”<sup>175</sup>

426. In an August 4<sup>th</sup>, 2022 Open Letter to the common stockholders, Aron foreshadowed his real reason for issuing the APEs:

“While each APE is designed to have the same rights as a common share, and can convert into a share of common stock that conversion decision is solely up to you. Conversion can only take place if the company proposes and shareholders (including APE holders) vote to approve the authorization of additional common shares at a future AMC Entertainment stockholders’ meeting. That is still your call to make. (Emphasis added).”<sup>176</sup>

427. On August 6<sup>th</sup>, 2022, Aron followed up on his “Tweet Storm” reminding AMC stockholders, that

“Oh and while I am on a role this lovely Saturday. There is absolutely NO DILUTION in this initial stock dividend payout on August 19. That is because initially all these APE’s go, and only go, to our current shareholder base. You own the same percentage of AMC before and after. It only would be dilution if we decide after August 22 to issue more APEs, above and beyond the initial dividend amount. But as I tweeted earlier, if we were to do that smartly, that could be very good for AMC investors. Our track record at AMC is excellent on this score so far.”<sup>177</sup>

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<sup>175</sup> AMC Preferred Equity unit (“APE”) Dividend Frequently Asked Questions (FAQs). August 2022. SEC.gov. Link:

[https://www.sec.gov/Archives/edgar/data/1411579/000110465922092397/tm2223780d1\\_ex99-1.htm](https://www.sec.gov/Archives/edgar/data/1411579/000110465922092397/tm2223780d1_ex99-1.htm)

<sup>176</sup> An Open Letter to AMC Entertainment Shareholders from Our Chairman and CEO Adam Aron. August 4, 2022. SEC.gov. Link:

[https://www.sec.gov/Archives/edgar/data/1411579/000110465922086144/tm222422d3\\_ex99-3.htm](https://www.sec.gov/Archives/edgar/data/1411579/000110465922086144/tm222422d3_ex99-3.htm)

<sup>177</sup> CEO Adam Aron on X (formerly called twitter). August 6<sup>th</sup>, 2022. X.com



428. On August 6<sup>th</sup>, 2022, Aron issued a tweet to address concerns about dilution related to Project Popcorn, aiming to counter any savvy AMC stockholders who were exposing dilution and its potential impact on the overall stock price.

“Biggest FUD of all. On dilution: Some misunderstand or try scaring you. There’s bad dilution and good dilution. If added liquidity gained from dilution is wasted, it’s bad. However, if wisely handled, it is good. Indeed, for AMC in 2021, it was actually great for our shareholders.”<sup>178</sup>

429. At no point does Aron, in his August 6<sup>th</sup>, 2022 Tweet, address the dilution factor and its impact on EPS. Since 2020, AMC’s outstanding shares have increased from a little over 100 million shares to over 520 million shares, with AMC making little progress in reducing its debt load.

430. In the issued Tweetstorm by Aron he describes APE shares as tax-free, a stock dividend and it is NOT dilution:

“You will get 1 APE tax-free, as a stock dividend, for each 1 AMC common share that you own. At least for now, this big news today is NOT dilution, as the AMC Preferred Equity unit dividends all go, and only go, to existing owners of company issued common share #TodayWePounce”<sup>179</sup>

431. On August 8<sup>th</sup>, 2022, Aron was on Yahoo! Finance live, a show with anchors Brian Sozzi, Julie Hyman, and Brad Smith. Two minutes and forty-three seconds into the interview, Julie Hyman asked Aron the following question about the APEs:

**Julie Hyman:** “So break this down for us, Adam. It’s Julie here. So how will this allow you to-- walk us through how this allows you to raise cash because the first issuance of these shares will be to existing shareholders, correct? So that doesn’t raise cash for you. It would be if there was a wave at some point where you would actually sell shares, correct?”<sup>180</sup>

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Link: <https://twitter.com/CEOAdam/status/1555959338442919939>

<sup>178</sup> CEO Adam Aron on X (formerly called twitter). August 6<sup>th</sup>, 2022. X.com

Link: <https://twitter.com/CEOAdam/status/1555949799362396160>

<sup>179</sup> CEO Adam Aron on X (formerly called twitter). August 4, 2022. X.com

Link: <https://twitter.com/CEOAdam/status/1555302885931589633>

<sup>180</sup> AMC CEO: New APE stock class ‘takes survival risk off the table’. CEO Adam Aron Interview with Yahoo Finance. Link: <https://finance.yahoo.com/video/amc-ceo-ape-stock-class-162906608.html>

**Adam Aron:** “What you just described is accurate. So what we are doing in the creation of preferred equity is we're doing what I guess you would-- **it's called a stock dividend, but it operates like a stock split**, so to speak. In a stock split, you have a common share. It's split. You've got two common shares, a two to one stock split. In our case, you'll get one preferred APE unit and a common share for the old common share. So that doesn't raise any cash to the company. That just puts APEs into circulation in the hands of our shareholders. Having said that, the authorization that we received from shareholders back in 2013 is that we could theoretically-- not that we ever would, but we could theoretically issue up to 5 billion of these things. Now, it would be foolish to do that. The market wouldn't support that. **Our shares are precious things. We treat them as such.** We'll only take what we believe is smart, wise action. Having said that, part of that smart, wise action, down the road, when we wish to, we could sell more APEs into the market. In addition to the 517 million that go out on day one in terms of this stock dividend.”<sup>181</sup>

432. Four minutes and twenty-six seconds into the interview, Julie Hyman asked Aron a follow-up question with regards to AMC stockholders not wanting to increase the number of authorized shares of common stock the Company could issue,

**Julie Hyman:** “And also, at some point, these preferred shares could be convertible into the common shares of the company. Now earlier this year, your shareholders said they didn't want you to issue more common shares. What do you think would make those circumstances change, and would you be able to convince shareholders at some point to convert those shares or to issue more common stock?”<sup>182</sup>

**Adam Aron:** “Well, this is really important, Julie. The shareholders didn't say, no, that they did not want us to issue more common stock. It was last summer-- May, June, July. We had it out for a shareholder vote. **The vote was split. It was actually running favorable in favor of a stock issuance at the time. But it was my opinion, my decision. I pulled the vote. I pulled the tabulation. I took the question off the table. And the reason I did that back then is while we were winning the vote, it was close, and I didn't think that on something this important, we should do it at a time when**

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<sup>181</sup> AMC CEO: New APE stock class ‘takes survival risk off the table’. CEO Adam Aron Interview with Yahoo Finance. Link: <https://finance.yahoo.com/video/amc-ceo-ape-stock-class-162906608.html>

<sup>182</sup> AMC CEO: New APE stock class ‘takes survival risk off the table’. CEO Adam Aron Interview with Yahoo Finance. Link: <https://finance.yahoo.com/video/amc-ceo-ape-stock-class-162906608.html>



**the shareholders were not for it in big numbers.** What's changed since then is I think that we've proven back in January of 2021, when we were issuing shares, our share price went up. Back in May and June when we issued shares, our share price went up. When we stopped issuing shares in July of 2021, our share price started a gradual decline. And I think we've been able to make the case to our shareholders that this new class of preferred stock, it's in their interest. It's in the company's interests. And as you can see, the market reaction to our announcement has been very positive.”<sup>183</sup>

433. The Broadridge voting results for May 4<sup>th</sup>, 2021<sup>184</sup>, on Proposal 1- approve amendment to increase Class A Common Shares, shows that while Aron was being interviewed by Julie Hyman on August 8<sup>th</sup>, 2022, he completely misrepresented the results of the vote as reflected below:

|                                   |             |
|-----------------------------------|-------------|
| <b>Total Shares Voted For</b>     | 116,229,932 |
| <b>Total Shares Voted Against</b> | 126,265,852 |
| <b>Abstain</b>                    | 2,375,509   |

434. The Broadridge voting results for July 29<sup>th</sup>, 2021<sup>185</sup>, on Proposal 1- approve amendment to increase Class A Common Shares - Withdrawn, shows that while Aron was being interviewed by Julie Hyman on August 8<sup>th</sup>, 2022, he once again completely misrepresented the results of the vote as reflected below:

|                                   |             |
|-----------------------------------|-------------|
| <b>Total Shares Voted For</b>     | 50,539,791  |
| <b>Total Shares Voted Against</b> | 101,407,329 |
| <b>Abstain</b>                    | 40,839,521  |

435. On August 13<sup>th</sup>, 2022, at 7:47 pm EST, Aron tweeted out to AMC stockholders, giving them notice that,

“Blindly fear dilution? You miss crucial FACTS. In Jan ‘21 AMC issued shares, AMC share price soared. May/June ‘21 more AMC shares, again our

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<sup>183</sup> AMC CEO: New APE stock class ‘takes survival risk off the table’. CEO Adam Aron Interview with Yahoo Finance. Link: <https://finance.yahoo.com/video/amc-ceo-ape-stock-class-162906608.html>

<sup>184</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC.\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC._STOCKHOLDER_LITIGATION/91802642/) Exhibit 31 pages 864-866

<sup>185</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC.\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC._STOCKHOLDER_LITIGATION/91802642/) Exhibit 32 pages 868-870



stock soared. Stopped selling shares July '21, \$AMC started a long fall. APEs announced last week, \$AMC up again. APEs makes AMC stronger.”<sup>186</sup>

436. On August 19<sup>th</sup>, 2022, AMC issued an initial 516,820,595 APEs to the holders of its 516,820,595 shares of Class A common stock, on a one-for-one basis, in the form of a special dividend.

**APE units Start Trading – The Project Popcorn Scheme Moves Forward with the Creation of the APE and AMC Spread**

437. On Friday August 19<sup>th</sup>, 2022, AMC common stock closed at \$18.02 per share.

438. On August 22<sup>nd</sup>, 2022, APE commenced trading on the NYSE. It was like Agamemnon leaving a horse outside Troy’s walls, as the Board had set in motion its end-run around AMC’s stockholders’ votes.

439. All AMC stockholders should have been on "equal footing", with their portfolios reflecting “x” number of shares of AMC and an equivalent number of shares of APE, maintaining fairness and equity among investors.<sup>187</sup>

440. However, many stockholders, particularly with oversea brokers, did not receive their shares on time. Other stockholders reported they never received APE, just a cash payout.

441. The foregoing table reflects the number of shares that were used:

| Security type                       | outstanding shares |
|-------------------------------------|--------------------|
| AMC common                          | 516.820.595        |
| APE units authorized for issuance   | 1.000.000.000      |
| APE units special dividend          | 516.820.595        |
| APE units possible for issuance     | 483.179.405        |
| APE units issued acc. proxy finling | 929.849.612        |

***Table 1: Underlying numbers for calculations***

<sup>186</sup> CEO Adam Aron on X (formerly called twitter). August 13<sup>th</sup>, 2022. X.com  
Link: <https://twitter.com/CEOAdam/status/1558601088281874432>

<sup>187</sup> For some people, the APE took days to reflect in their account

442. For those investors that did receive the correct number of APE shares, they found that AMC and APE opened on August 22<sup>nd</sup>, 2022 at:

**AMC: \$11.33 APE: \$6.95**

443. So essentially, at the outset, the APE dividend accounted for 38% of the original AMC's previous value, leaving the remaining 62% with AMC stock. In other words, APE took \$3,591,903,135.25 of market capitalization from AMC Common Stock.

444. Minutes after the stock market opened, APE was halted for trading.

445. However, the halts didn't end there. By the end of the day AMC was halted 3 more times and APE was halted 10 more times, which created additional stockholder confusion and interference for those that were trying to buy or sell. Aron tweeted later that evening stating,

“149 million AMC shares and 108 million APEs traded Monday on the NYSE. Exchange “halts” trading due to volatility, defined as a +/- 5% price change within a 5 minute period. If so, trading is stopped for a 5-minute . On Monday, AMC was halted 3 times, APE halted 10 times!”<sup>188</sup>

446. By the end of the August 22<sup>nd</sup>, 2022 trading day, AMC and APE closed at:

**AMC: \$10.46 APE: \$6.00**

447. The combined total value of AMC and APE (\$16.46) was already down about 8.6% from the previous trading day (where AMC closed at \$18.02).

### **First Element of the Project Popcorn Scheme**

448. On August 22<sup>nd</sup>, 2022, AMC and APE did not trade at parity (the same price); instead, their spread (the difference in prices between APE and AMC) only increased. This outcome was anticipated by the AMC Board, considering that they knew that index funds and various institutional investors were constrained from holding derivative securities or tickers not included in the relevant index like APE. Additionally, prior to its launch, the AMC Board was

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<sup>188</sup> CEO Adam Aron on X (formerly called twitter). August 22<sup>nd</sup>, 2022. X.com  
Link: <https://twitter.com/CEOAdam/status/1561857596730101760>

aware that **78 million shares, constituting 15 percent of APE's float**, would be sold from day one, contributing to a downward pressure on APE's trading price.<sup>189</sup>

449. On August 23<sup>rd</sup>, 2022, at 5:02 pm EST, Aron tweeted out to AMC shareholders, giving them notice that,

“On 2nd day on the NYSE, 103.5 million new APE units (and 77.5 million AMC shares) traded. As expected, some brokerages doing better than others in getting you your APEs. All 4 of the brokers I use had it right, got their clients (including me) APEs by close of business yesterday.”<sup>190</sup>

450. Following Aron’s August 23<sup>rd</sup>, 2022 Tweet, hundreds of AMC shareholders tweeted back at Aron expressing their frustration:

Why was trading allowed to occur at all until everyone got their dividend?

Yeah they put those placeholder IOU’s in just fine like we knew they would. WE NEED A COUNT!!

Non US brokerages are putting APE in clients’ account Aug 24 - Aug 26. Whose responsible for the loss from APE’s highest price so far as those without shares could not sell at all when APE was at \$10 ?!  
We need a MARKET MAKER for retail and AMC/ APE

In Greece haven't received anything yet. CITIBANK is the broker and doesn't reply to my request regarding my APE shares

Germany is still waiting.

Are you going to address the “monkey” in the room - shareholders who haven’t procured their APE shares?

Have you exercised your fiduciary duty and reached out to these brokers for an explanation for the “delay”?? Have you confirmed if the shares being distributed are legit shares or IOUs? Asking for a few million apes ...

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<sup>189</sup> June 29-30 AMC Settlement Hearing

<sup>190</sup> CEO Adam Aron on X (formerly called twitter). August 23<sup>rd</sup>, 2022. X.com  
Link: <https://twitter.com/CEOAdam/status/1562183610173718528>



451. On August 23<sup>rd</sup>, 2022, Twitter handle @Apeocalypse1 tweeted at Aron and tagged @Wealthsimple, a Canadian online investment management service, stating,

Why does @Wealthsimple let me buy #APE but not give me the ones I'm owed ..fack this isn't science @mkatchen CEO of @Wealthsimple

452. That evening, Wealthsimple responded to @Apeocalypse1 by tweeting the following message,

You do not need to purchase an \$APE share in order to see your shares. Your shares should be posted in your account today. If you do not see them by the end of the day, please contact our team at <http://wsim.co/support> 🙌

@Apeocalypse1 responded,

How many times do I need to contact you there not there!!! just put them in our accounts...

453. On August 31<sup>st</sup>, 2022, Ms. Blackwood was arrested at her home in the Bronx.

**September 21<sup>st</sup>, 2022 AMC's Pricing Committee authorizes AMC to sell up to 425 million APEs in ATM offerings**

454. On September 21<sup>st</sup>, 2022, AMC's Pricing Committee, comprising of Aron, Kathleen Pawlus, Lee Wittlinger, and Philip Lader, authorized AMC to sell up to 425 million APEs, via written consent, in ATM offerings for no less than \$2 per APE.

455. On September 21<sup>st</sup>, 2022, AMC and APE closed trading at:

**AMC: \$8.60 APE: \$3.98**

456. While the trading price of APEs was in freefall and the spread between AMC and APE was only widening, the AMC Pricing Committee's decision to sell unissued APEs at distressed prices, raises concerns about their adherence to sound business logic while further diluting existing AMC stockholders.

457. On September 23<sup>rd</sup>, 2022, Etan Leibovitz placed a call to the Chicago Board Options Exchange from a recorded line to inquire why there was an option chain for APE, two days after APE commenced trading on the NYSE, on August 22<sup>nd</sup>, 2022. Etan Leibovitz has yet to receive an answer to his inquiry.
458. On September 26<sup>th</sup>, 2022, AMC supplemented its August 4<sup>th</sup>, 2022 prospectus, expanding the offering to include up to 425 million APEs for sale. Notably, AMC disclosed that it had entered into an equity distribution agreement with only Citigroup Global Markets Inc. as its underwriter for this offering, deviating from previous ATMs where AMC typically engaged at least 2 or 3 underwriters, like Goldman Sachs and Riley Financial. **This marked the first instance of using a single underwriter for such transaction.**
459. Soon after, AMC started selling APEs to the market.
460. Subsequent to APE's launch, at no point did AMC and APE trade at parity instead their spread only increased.

### **Second Element of the Project Popcorn Scheme**

461. As the spread between APE and AMC widened while both their prices dropping, a new class of institutional investors and traders emerged, seeking to capitalize on the arbitrage opportunity created by the price difference between the APE units and AMC stock.
462. Because APE was potentially convertible into AMC common at a future point in time, many investors saw AMC and APE as interchangeable.
463. Many investors were incentivized to buy APE at a much lower price in the hopes that both AMC and APE would be merged together in the future. For an arbitrage example, on December 2<sup>nd</sup>, 2022, APE closed at \$1.00, and AMC closed at \$8.17. Investor A might buy \$1 million worth of APE at \$1.00 and sell short \$1 million worth of AMC at \$8.17, equivalent to 122,399 shares, to Investor B. If AMC and APE merged at an equivalent rate, post-merger, Investor A would have 1 million shares valued at around \$4.59 million (a 4.59x increase in value). Additionally, Investor A could close the short position by buying 122,399 shares of AMC at the post-merger value of \$4.59, resulting in a profit of \$438,188.42 in cash from that trade. However, post-merger, Investor B would have 122,399 shares valued at around \$561,811.41, indicating a loss of around 46%. This example illustrates the potential profitability of a well-executed arbitrage play on AMC and APE, involving two profitable trades simultaneously.

### **Third Element of the Project Popcorn Scheme - the Floor to Sell Ape Is Lowered To \$1**

464. On October 12<sup>th</sup>, 2022 at 12:03 pm, Aron drafted an email from his non-AMC corporate account (Adam Lofts At BV) with the subject titled – [Chat #51] and sent it to himself at his AMC corporate account, Kevin Connor, Kathleen Pawlus, Lee Wittlinger and Sean Goodman to convince the APE pricing Committee to lower the floor to sell APE to \$1, ,

“Attorney Client Privilege Kathy/Lee, We have no choice. We must raise cash. APE is our only vehicle. And it and AMC have been dropping like a stone last month. We had previously set a two dollar price floor for APE sales. It fell below \$2.00 on Monday. We sat out Monday and Tuesday to see if it was our selling that was causing the price decline. It is not. APE is still falling. Now AMC + APE totals around \$7.50 (still a robust \$3.8 billion market cap) but irrationally instead of the prices reflecting 50-50 between the preferred and common, it is more like a 25-75 split between the preferred and common. So, APE trading around \$1.70. **I would strongly urge us as the Pricing Committee to lower the price floor to \$1.00.** Do you agree? I’m happy to do a phone call this morning if we need it, but I think we can reach approval via this text chain. Adam”<sup>191</sup>

465. Seven minutes later, Aron drafted another email from his non-AMC corporate account (Adam Lofts At BV) with the subject now titled – [Chat #52] and once again sent it to himself at his AMC corporate account, Kevin Connor, Kathleen Pawlus, Lee Wittlinger and Sean Goodman stating,

“Attorney Client Privilege Kathy/Lee, In case you’re wondering why do we need to raise cash. Why am I saying it is a necessity? 1. Yesterday, only due to Covid-caused production delays, Disney shifted a \$350 million movie from 2023 to 2024. Current industry box office forecast for next year is now more like \$9.5 billion – not the \$10.5 billion people hoped a month back 2. We are currently refinancing our European debt, but are likely to use \$50-\$100 million of cash to do so as required by the lenders as they want to see us pay down some Fais amount of the debt. 3. Surging interest rates could increase our interest expense by \$40-\$60 million next year. It is essential that we strengthen our liquidity. Adam Adam”<sup>192</sup>

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<sup>191</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC.\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC._STOCKHOLDER_LITIGATION/91802642/) Exhibit 27 page 854

<sup>192</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC.\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC._STOCKHOLDER_LITIGATION/91802642/) Exhibit 28 page 856



466. Rather than defend the distressed asset, the APE units, the AMC Pricing Committee instead agreed to lower the floor to sell APE to a “precious” \$1 per unit. This decision represented an -86% value threshold compared to the initial pricing of \$6.95, which was the opening price on August 22<sup>nd</sup>, 2022.

467. On November 7<sup>th</sup>, 2022, Citigroup’s analyst Jason Bazinet reaffirmed his Sell rating on AMC. Bazinet cut his \$3.13 price target to an even worse \$1.20.<sup>193</sup>

468. During AMC’s earnings call in November 2022, Aron spoke to the creation of APEs and underlying investor concerns, stating:

“In launching them, we said that the creation of APEs was nothing less than an all defining moment in AMC’s future, as it gave us a new currency to help AMC to grow, to deliver and the [sic] raise capital. *We also said at the time, to those who feared mindless dilutions, that we would treat our new APE preferred stock that we would treat it as precious, and we will continue to do so.* So far, we have raised only \$37 million of equity proceeds from the sale of APEs into the market, we have indeed been careful.”<sup>194</sup>

469. A year after Project Popcorn was launched, on November 10<sup>th</sup>, 2022, Aron was on the Claman Countdown. Seven and half minutes into the interview, Liz Claman asked Aron the simplest direct question:

**Liz Claman:** “Back in June of 2021, AMC was what a \$60 stock, the retail investors were all in, by November and December company insiders including yourself and we talked about this, were selling shares anywhere from 27 to 40 bucks, you did telegraph that, that would happen on an earnings calls, but some triangulate that insiders didn’t believe the company was worth such a high evaluation that’s why they were selling, can you just clarify that?”

**Adam Aron:** “No Liz, I can’t because that is 2021 news that is ancient history.”<sup>195</sup>

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<sup>193</sup> Citigroup Maintains Sell on AMC Entertainment, Lowers Price Target to \$1.2. Benzinga. Posted on November 7, 2022. Link: <https://www.benzinga.com/news/22/11/29594072/citigroup-maintains-sell-on-amc-entertainment-lowers-price-target-to-1-2>

<sup>194</sup> AMC Entertainment Holdings, Inc. (AMC) Q3 2022 Earnings Call Transcript. November 10, 2022. SeekingAlpha. Link: <https://seekingalpha.com/article/4555132-amc-entertainment-holdings-inc-amc-q3-2022-earnings-call-transcript>

<sup>195</sup> Interview Adam Aron with Liz Claman on Fox Business - Claman Countdown on November 10<sup>th</sup>, 2022, Time: 07:36 – 08:06, Source: <https://www.foxbusiness.com/video/6315332313112>

470. Aron's evasive response to Liz Claman's straightforward question about insider selling in November and December 2021 and the perceived valuation of AMC, raises questions about his state of mind and culpability in light of Project Popcorn being memorialized sometime in November 2021 and Aron telling Marc Cohodes to stand down.

471. On November 14<sup>th</sup>, 2022, Aron was on Squawk Box, a show on CNBC with Andrew Sorkin. Two minutes into the interview, Andrew Sorkin asked Aron the following questions:

**Andrew Sorkin:** "I want to read you something that Wedbush securities analyst Alicia Reese wrote .... she said, I think their announcement that they began selling some of their announced 425 million APE shares at such a low per share price speaks to their cash needs or perhaps more frivolous spending. What do you think if you read that?"

**Adam Aron:** "Oh it's kind of ridiculous. When we launched the APE security in August of 2022, like a couple of months ago, we said right back then that we were going to raise capital with it but we're going to do so with a slow and steady pace. Judicially the market sets the price, we don't set the price. We'll raise capital to wherever the price is but we're not going to flood the market by selling a ridiculous quantity of shares. That is not the right way to do it. Remember, nobody is more practiced at this than AMC [...] We know what we're doing. We are doing it the right way. We continue to raise capital and that's the smartest way to run the company."

**Andrew Sorkin:** "You said you're gonna continue to raise capital. So how are you continue to raise capital?"

**Adam Aron:** "We have the opportunity to raise capital every day through at the market offering but we're only doing it in small quantities, judicially and smartly. But these are precious things, our preferred stock and we don't want to waste it or spook the market by trading too much too fast. [...] We know what we're doing."<sup>196</sup>

472. On November 30<sup>th</sup>, 2022, the APEs traded for the first time below the bargain price of \$1 per unit, forcing AMC to stop selling APEs through the ATM.

473. APEs would trade one more time above \$1 per unit on December 1<sup>st</sup>, 2023 and then from December 2<sup>nd</sup> – December 21<sup>st</sup>, 2022 under \$1.

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<sup>196</sup> Interview: Adam Aron with Andrew Sorkin. November 14th, 2022. CNBC.

Link: <https://www.cnbc.com/video/2022/11/14/watch-cnbc-full-interview-with-amc-ceo-adam-aron.html>

474. On December 6<sup>th</sup>, 2022, at 10:52 am, DF King Senior Vice President Krystal Scrudato drafted an email titled **AMC/APE Model** and emailed Eddie Gladbach, John Merriwether, Sean Goodman, and Kevin Connor. She also cc'd her colleague Michael Madalone at DF King, stating,

**"All,**

**Attached is a model designed to show which combinations of APE and AMC support (as a % of votes cast collectively in favor) would get us to requisite vote requirement of the majority of the combined outstanding shares. This model allows you to place inputs in the yellow highlighted cells and will recalculate the projected share need accordingly. Note, this model is illustrative, rather than predictive, and runs under the following assumptions:**

- The proposal put forth will be a non-routine proposal**
- All unvoted APE Shares will be pushed through on a proportionate basis**
- AMC shareholder vote participation levels will be in line with historical (does not take into account potential use of extraordinary retail measures that would increase AMC participation and favorability, i.e. aggressive outbound telephone campaign, reminder correspondence, social media usage, strategic PR messaging from Adam and the AMC team, etc.)**

**Please review and let Mike & I know of any questions. We'd be happy to set another call to discuss further, if desired.**

**Thank you,  
Krystal and Mike"**<sup>197</sup>

475. The content of Krystal Scrudato's December 6<sup>th</sup>, 2022 email, along with the attached AMC APE Model Excel sheet, which incorporates a dynamic recalculated projected share need function, reflects a coordinated effort by DF King to assist AMC's Board in manipulating and rigging the vote in their favor.

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<sup>197</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 15 page 812



476. Krystal Scrudato's December 6<sup>th</sup>, 2022 email concluding with the statement "We'd be happy to set another call to discuss further, if desired" suggests that a call between the parties had already taken place before the email was drafted.

**Antara**

477. On or about December 7<sup>th</sup>, 2022, Derek Van Zandt introduced Aron to Antara.

478. On December 8<sup>th</sup>, 2022, at 1:19 pm, Derek Van Zandt drafted an email with the subject "Antara". The email included an attached PDF file named "**2022.12 AMC APE Investment Analysis\_v6.pdf**," indicating it went through **6 versions**. The email was sent to Aron and Sean Goodman stating,

**"Adam/Sean –**

**Attached is a preliminary ownership and vote analysis based on various investment scenarios with Antara. We need to confirm their existing stake size but are assuming 60 mm shares for now. We probably need to discuss size considerations relative to 20 % threshold with your lawyers and any governance / control implications. I am talking to Antara at 2 pm ET to connect following yesterday's lunch.**

**Derek"** <sup>198</sup>

479. Approximately two hours later, Derek Van Zandt drafted another email, once again with the subject "Antara", but this time he included four of his colleague email accounts at Citibank (Cristian Gonzalez, Kak Shiv, Cass Meadows, and Mark Mikullitz) and Kevin Connor's email account stating,

**"Just spoke with Himanshu. He was very positive on yesterday's meeting. They want to proceed but are limited to \$150 mm in size due to risk limits but believe they can stretch it to \$190 mm with the repurchase of their \$100mm face of 2Ls at 40. He is willing to allocating (sic) value to the bonds to provide for a higher APE price but we need to think this through. \$190 mm purchase of APEs at 20% discount. AMC purchase their \$100mm 2L notes @40. AMC commits to proceeding with vote. Antara agrees to hold**

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<sup>198</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibits 1, 14 pages 8, 810

**shares until vote and vote in favor. He wants AMC restricted from selling more APEs until after the vote including converts. Restriction lifted if APEs > 3. Wants participation in 8k / Press release drafting. Available for public information diligence on Monday in KC (Adam and / or Sean). Target transaction timeframe next week.”**<sup>199</sup>

480. With Antara agreeing to hold shares until the vote and vote in favor of conversion demonstrated that the Antara Transaction was not about raising capital from Antara, but rather about giving Antara a windfall to ensure it would vote in favor of the Certificate Amendments.

481. Derek Van Zandt’s December 8<sup>th</sup>, 2023 email to Aron, Sean Goodman, Kevin Connor, and his four Citibank colleagues reveals their back-door dealing and a coordinated effort between AMC, Citigroup, and Antara to manipulate the voting process. The aforementioned parties discuss the purchase of APEs at a discounted price, with AMC committing to proceed with the vote and Antara agreeing to hold shares and vote in favor. This collusion undermines the voting process’ integrity and evidentially supports the argument of a premeditated plan to procure the desired outcome. It also highlights Antara’s financial incentives to support the collusion. In exchange for their cooperation, Antara is offered a significant financial benefit through the repurchase of their \$100 mm face of 2L notes at a favorable price. This arrangement not only showcases Antara’s willingness to collude with AMC but also raises questions about AMC’s true motivations and their commitment to acting in the best interests of AMC common stockholders. **This email also reveals a clear intention to restrict competition and manipulate share prices which explains why AMC went with one underwriter.** Antara requested to restrict APE sale to others until after the vote indicating collaboration to control and influence the market, potentially to the detriment of other shareholders. Derek Van Zandt’s mention of Antara’s willingness to participate in drafting 8K/press releases and provide public information diligence suggests an effort to control the narrative, raising concerns about transparency.

482. Analyzing Antara’s disclosed transactions, from their SEC filings, reveals a pattern of aggressive short-selling of APE units from at least November 2<sup>nd</sup>, 2022, shortly after Citigroup was named the **sole underwriter** in the APE ATM on September 26<sup>th</sup>, 2022. Antara consistently maintained a net short position on APE until November 25<sup>th</sup>, 2022. However, between November 25<sup>th</sup> and November 30<sup>th</sup>, 2022, Antara’s strategy shifted, they started swing trading APE, and going net long on the security, coinciding with a significant development.

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<sup>199</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 1 pages 8



483. Derek Van Zandt's December 8<sup>th</sup>, 2022 email informs Aron that Antara is willing to hold the necessary APE units and vote in favor of the conversion. This revelation raises questions about Derek Van Zandt's prior contact with Antara (How could he know otherwise?). The close timing of Antara's strategy shift and Derek Van Zandt's recommendation to Aron cannot be dismissed as mere coincidence. It's plausible that Derek Van Zandt, the architect of the APE units and conversion plan, orchestrated Antara's involvement as the key stockholder needed to ensure the conversion vote's success. Examining Antara's transactions further reveals that between December 7<sup>th</sup> and December 16<sup>th</sup>, 2022, Antara sold 6,344,985 APE units, putting downward pressure on the price of APE from \$0.81 to \$0.73.
484. Despite these sales, Antara still managed to accumulate a net long position of 8,918,175 APE units by the end of December 16<sup>th</sup>, 2022. Considering the potential gains from the arbitrage and the knowledge of a rigged and forced conversion vote, it becomes evident that it was strategically advantageous for Antara to acquire as many cheap APE shares as possible. It is worth noting that APE reached its all-time low of \$0.67 in the days preceding the publicly announced Forward Purchase Agreement<sup>200</sup> on December 22<sup>nd</sup>, 2022.
485. While Aron may have referred to AMC's treatment of APEs as "precious," AMC in fact flooded the market with over 800 million APEs—at bargain basement prices—in less than 6 months.
486. On December 21<sup>st</sup>, 2022—when the AMC Common Stock closed at \$5.30 per share—the APEs closed at \$0.685 per unit. As noted, despite the two being functionally equivalent, the APEs traded at a deep discount to AMC's Common Stock. In response, the AMC Board "set out to boost the price of the APEs" while also increasing the Company's authorized shares. It did so to the detriment, and against the wishes, of holders of AMC Common Stock.

**AMC: \$5.30 APE: \$0.685**

487. At a special AMC Board meeting on December 21<sup>st</sup>, 2022 via ZOOM videoconference, the following AMC Board of Directors were present at the meeting: Aron (chair), Phillip Lader (Lead Director), Anthony Saich, Howard Koch Jr, Kathy Pawlus, Gary Locke, Lee Wittingler and Adam Sussman and the following officers were present: Sean Goodman and Kevin Connor. The Board of Directors discussed a potential transaction with Antara, "which had been introduced to AMC by Citi." Aron explained "that the Company had raised approximately \$162M from its fall ATM efforts but that the APE price had fallen below \$1.00, causing AMC

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<sup>200</sup> AMC Entertainment Holdings Inc - Forward Purchase Agreement, dated as of December 22, 2022, by and between AMC Entertainment Holdings, Inc. and Antara Capital LP - EX-10.1 - December 22, 2022; Source: <https://fintel.io/doc/sec-amc-entertainment-holdings-inc-1411579-ex101-2022-december-22-19348-8996>



to stop selling shares in the open market.” He also forecasted that the Company would have “approximately \$750M of liquidity for the end of the year including its \$200M revolver.”<sup>201</sup>

488. “Next, Aron outlined the terms of the transaction with Antara, explaining that:

- (i) the “Company would sell \$110M of APEs to Antara at a blended price of \$0.66, a slight discount to the \$0.685 closing price today”;
- (ii) “Antara would purchase 60M shares today for \$0.58 per share under the Company’s ATM program and approximately 107M shares in 30 days, after antitrust clearance, for \$0.70 per share”; and
- (iii) “AMC would purchase \$100M of face value of AMC’s 2L notes owned by Antara in exchange for approximately 91M APEs. Antara would agree not to sell any stock for 90 days.”<sup>202</sup>

489. However, Aron neglected his fiduciary duties by failing to investigate Antara's true intentions and their potential involvement in short selling, which could harm shareholder value and violate SEC Rule 105<sup>203</sup>. Disregarding these concerns, Aron proceeded to present the Antara deal to the board.

490. “Aron also told the Board that “AMC would schedule a special shareholder vote to authorize additional common stock such that Company’s APE securities would convert to common stock on a 1-1 basis” and at which the “Company would also recommend a 10-1 reverse stock split.” Per Aron, Antara agreed to vote in favor of these proposals. Finally, “Aron explained that the resulting increase in liquidity to approximately \$900M would be very desirable,” although he did not identify any specific need for the liquidity.”<sup>204</sup>

491. On the surface, these actions may have appeared to be aimed at increasing liquidity to a favorable level of approximately \$900 million. However, upon further scrutiny, it becomes evident that retail shareholders were guaranteed to bear the consequences. In reality, AMC did not urgently require liquidity in 2022 to justify the Antara transaction based on the false claims of raising cash to avoid bankruptcy. According to AMC’s annual report, AMC had a cash

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<sup>201</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 119.

<sup>202</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 120.

<sup>203</sup> RULE 105 OF REGULATION M: SHORT SELLING IN CONNECTION WITH A PUBLIC OFFERING, Source: [Rule 105 of Regulation M: Short Selling in Connection with a Public Offering \(sec.gov\)](#)

<sup>204</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 121

position of \$654.4 million on December 31, 2022<sup>205</sup>. Taking into account the cash generated through the APE ATM<sup>206</sup>, the company would still have had approximately \$425.6 million in its bank account.

492. “Following Aron’s presentation, the Board discussed the transaction. During this discussion:

Aron outlined the voting dynamics for the special shareholder meeting indicating that there were presently *considerably more APEs in the float than common stock, that the APEs presumably would all want to convert and that the non-voting APE shares would be voted proportionately rather than as ‘no votes,’* all of which factors gave AMC a good chance to secure approval for conversion.”<sup>207</sup>

493. “Thereafter, the directors noted that Antara might enjoy a windfall if the APE price increased but ultimately noted that AMC benefitted too if the price increased and that there were no assurances that the APE price would rise or convert.”<sup>208</sup>

494. “Next, Aron indicated that “one risk was if the retail investors were upset by the transaction and began selling their shares, causing the price of AMC equity to decline.” Nevertheless, at the close of the meeting, the AMC Board approved the Forward Purchase Agreement.”<sup>209</sup>

495. Part of the Project Popcorn scheme, including with this sale to Antara, was to eliminate the voting control of the common stockholders who had made very clear their opposition to further dilution of their shares. The scheme included converting all APEs to common shares on a one-to-one basis, even though the APEs traded at a fraction of the price of the common stock, as the APEs would have a strong financial incentive to vote for the conversion.

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<sup>205</sup> AMC annual report 2022, Page 51 ; Source:

<https://www.sec.gov/ix?doc=/Archives/edgar/data/0001411579/000141157923000038/amc-20221231x10k.htm>

<sup>206</sup> \$228,8 gross proceeds. AMC annual report 2022, Page 49; Source:

<https://www.sec.gov/ix?doc=/Archives/edgar/data/0001411579/000141157923000038/amc-20221231x10k.htm>

<sup>207</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 122

<sup>208</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 123

<sup>209</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 124



496. On December 21<sup>st</sup>, 2022, James Wes Christian (“Mr. Christian”), an attorney representing Naked Truth Inc., drafted a cease and desist letter directed to Aron, dated December 21<sup>st</sup>, 2022. The letter was sent certified mail return receipt with the following tracking number 70210350000053769545. According to the United States Postal Service tracking website, Aron was served with Mr. Christian’s letter on December 30<sup>th</sup>, 2022 at 2:23 pm. Mr. Christian’s letter reads in part,:

According to our client, you have issued a press release stating there are no phantom shares of the Company (AMC) in the marketplace.

Our legal team and experts have done due diligence on over 70 public companies over the last 20 plus years. After reviewing the publicly available data, we believe the data indicates the Company most likely has a large number of phantom shares of the Company in the marketplace.

As such, we hereby demand you take immediate action to determine the number of real vs. phantom shares by hiring Share Intel (a shareholder intelligence company) who has patented software and methodologies that will determine if the wall street community has in its possession phantom shares of the Company or not.

In the event you elect to not take this action, on or before the 28<sup>th</sup>, of January, it will be our obligation to hold the company accountable for what we believe is fraud on the Company and its shareholders.

497. On December 22<sup>nd</sup>, 2022, AMC announced that it had, through a series of transactions, sold or agreed to sell 257,621,297 APEs to Antara at a weighted average price of \$0.660 per APE. AMC filed with the SEC a Form 8-K Current Report (the “December 8-K”), wherein the Company announced that it had entered into the Forward Purchase Agreement with Antara, pursuant to which AMC would

- (i) “sell 106,595,106 APEs to Antara for an aggregate purchase price of \$75.1 million (the “Forward Purchase APEs”) and
- (ii) simultaneously purchase from Antara, on a private basis, \$100 million aggregate principal amount of the Company’s 10%/12% Cash/PIK Toggle Second Lien Notes due 2026 (the “Exchange Notes”) in exchange for 91,026,191 APEs (together with the Forward Purchase APEs, the “Private Placement APEs”). AMC disclosed that immediately prior to entry into the Forward Purchase Agreement,



Antara purchased 60 million APEs at a price of .58 cents for \$34.9 million through the at-the-market program (the “Initial APEs”).”<sup>210</sup>

498. In the December 8-K, AMC further disclosed that, within 90 days, it would hold a special meeting of stockholders to solicit stockholder approval of amendments to the Certificate to:

- (i) **“increase the number of authorized shares of Common Stock to a number at least sufficient to permit the full conversion of APEs into Common Stock; and**
- (ii) **(ii) effect a 10-to-1 reverse-stock split of the Common Stock. Per the Company, Antara agreed to vote all its holdings in favor of the Amendments.”**<sup>211</sup>

499. The final results and execution of the APE ATM reveals a contradiction in Sean Goodman’s July 20<sup>th</sup>, 2022 memorandum. The AMC Board opted not to take advantage of market conditions by selling APE at higher issuance prices ranging from \$10 to \$7. Instead, they waited for several months to sell the APE units, a distressed asset at the time, trading below \$1. This choice aligns with the Project Popcorn scheme’s strategy to maximize the impact on procuring votes. According to the December 8<sup>th</sup>, 2022, Derek Van Zandt email, Antara had \$190 million to “invest”. By entering into an agreement with Antara at 66 cents instead of \$8, Antara received 275 million shares to cast 275 million votes. In contrast, selling shares at \$8 would have given Antara only 23.75 million shares, equating to only 23.75 million votes—insufficient to manipulate and rig the March 14<sup>th</sup>, 2023 vote outcome. According to SEC Filings the average selling price of APE in 2022 was \$1.10.

500. On December 22<sup>nd</sup>, 2022, AMC and APE opened at:

|                                       |                    |                     |
|---------------------------------------|--------------------|---------------------|
| <b>December 21<sup>st</sup>, 2022</b> | <b>AMC: \$5.30</b> | <b>APE: \$0.685</b> |
| <b>December 22<sup>nd</sup>, 2022</b> | <b>AMC: \$4.14</b> | <b>APE: \$1.23</b>  |

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<sup>210</sup> AMC Press Release Announcing Antara Deal. December 22, 2022. Link:

<https://investor.amctheatres.com/newsroom/news-details/2022/AMC-Entertainment-Holdings-Inc.-Announces-110-Million-Equity-Capital-Raise-a-100-Million-Debt-for-Equity-Exchange-and-a-Proposed-Vote-to-Convert-AMC-Preferred-Equity-APE-Units-Into-AMC-Common-Shares-and-Implement-a-Reverse-Stock-Split/default.aspx>

<sup>211</sup> AMC Press Release. December 22, 2022. Link: <https://investor.amctheatres.com/newsroom/news-details/2022/AMC-Entertainment-Holdings-Inc.-Announces-110-Million-Equity-Capital-Raise-a-100-Million-Debt-for-Equity-Exchange-and-a-Proposed-Vote-to-Convert-AMC-Preferred-Equity-APE-Units-Into-AMC-Common-Shares-and-Implement-a-Reverse-Stock-Split/default.aspx>

501. The APEs almost doubled from the previous day's close of \$0.685. Remarkably, Antara has never been out of the money with their December 21<sup>st</sup>, 2022 APE “investment” – the Forward Purchase Agreement with AMC.

Aron's Meet in Greet at Sugar Land, Texas

502. On December 22<sup>nd</sup>, 2022 at 7 pm CST, Aron held a meet-and-greet event at First Colony 24 in Sugar Land, TX for a special screening of BABYLON. After the movie, some AMC stockholders, including Blythe Weston, stayed behind to ask Aron some questions. Blythe Weston recorded her conversation with Aron, capturing the dialogue as follows:

**Aron:** The common shares are the same thing.

**Blythe Weston:** Okay.

**Aron:** And there is no explaining it but the market has priced the APE at 1/7<sup>th</sup> of the common share, and they are the same thing. So we are giving them away at 1/7<sup>th</sup> of where we should. So it makes, so we got to put them back together.

**Blythe Weston:** Right.

**Aron:** And if you own the APE it's going to go up in value.

**Blythe Weston:** Up in value.

**Aron:** And as the company raises more capital in the future we will raise it at 3 or 4 or 5 or 6 times the price we are getting them for, and this makes no sense but when we announced it today, the APE went up 75 percent.

**Blythe Weston:** Right while my AMC went....

**Aron:** Down, it went down 7, AMC went down 7 percent, but APES went up 75 so that tells you the market knows that they have been playing games with us.

503. On January 1<sup>st</sup>, 2023, at 7:17 pm EST, Aron finally addressed and responded to retail stockholders via Twitter, who had just discovered the connection between Mary-Catherine Lader, COO of Uniswap, a decentralized cryptocurrency exchange, and her father, Phillip Lader, who is a member of the board of AMC. Aron tweeted:

“So much GARBAGE info spreading about AMC by twisted conspiracy theorists. Our REAL challenge (among others): the industrywide domestic box office \$11.4 billion in 2019 pre-pandemic. Only \$7.4 billion in 2022. Up 64% above '21, but 35% below '19. Our view: it grows in '23 & '24.”<sup>212</sup>

504. Following Aron's January 1<sup>st</sup>, 2023 Tweet, hundreds of AMC shareholders tweeted back at Aron expressing their frustration:

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<sup>212</sup> CEO Adam Aron on X (formerly called twitter). January 1<sup>st</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1609705346980876289>

@CEOAdam

please answer the questions. Why is there a Morgan Stanley executive in the board of AMC? The same company naked shorting AMC into the ground. Why did you sell APE at .58-.66 knowing damn well they are worth more? Why the sudden need to raise cash?

@CEOAdam

why is there a former Blackrock exec NoW COO of Uniswap and daughter of a MEMBER of the board of AMC even touching anything in relation to AMC? It's your best interest to ADDRESS the question and STOP redirecting

@CEOAdam

it's time to address the elephant in the room. SHARE RECALL immediately! If you are truly for AMC and the investors this is the ONLY way to end this nonsense

Share holders need answers about AMC Tokenized Stocks utilized through Uniswap, who's COO is the Daughter of AMC Board Member Lader. This needs to be addressed immediately.

505. On January 10<sup>th</sup>, 2023, AMC and APE closed at:

**January 10<sup>th</sup>, 2023      AMC: \$4.06    APE: \$1.39**

506. On January 30<sup>th</sup>, 2023, Billionaire Jim Chanos announced publicly on CNBC he was playing an arbitrage play on AMC and APE. Specifically, Chanos stated,

“So we are long the AMC preferred, the so called APE shares, and we have been bearish on the common for a long time, since the post meme stock run up, and Adam Aron to his credit is trying to raise capital, doing the right thing for the company. They realized this loophole last August where they could issue preferred shares, they couldn't issue any more common, shareholders wouldn't let them issue any more common, they find kind of a back door around that and did a big private placement with a private investor who agreed to vote shares on behalf of converting these, so whats going to happen is its going to be a shareholder vote in march. Filed the document on Friday night. Preferred shareholders can vote



common shareholders can vote we think there is enough votes to force conversion so one ape will become one share of AMC they are still trading about a \$3 difference a classic arbitrage.”<sup>213</sup>

507. On February 3<sup>rd</sup>, 2023, at 12:34 pm EST, Aron tweeted giving AMC Stockholders notice that:

“Important skills for a CEO are good judgement and good instincts. I took so much flack, and vitriolic personal insults, for not embracing tZERO. On Jan 10, the SEC censured and fined tZERO. Today, tZERO Crypto announced it will cease operations. So glad I stayed away from tZERO.”<sup>214</sup>

508. Forty-seven minutes later, Marc Cohodes re-tweeted Aron’s tweet stating,

“You are an idiot and dont know the first thing for which you speak.. Wait till it (sic) your turn you Asshat @CGasparino”<sup>215</sup>

509. Also on February 3<sup>rd</sup>, 2023, APE conveniently traded for the first time above \$3.00 since Antara and AMC executed the Forward Purchase Agreement.

**February 3<sup>rd</sup>, 2023      AMC: \$6.08    APE: \$3.01**

510. On February 6<sup>th</sup>, 2023, Aron tweeted out to AMC stockholders, correcting his previous statement from his February 3<sup>rd</sup>, 2023 tweet regarding tZero, stating,

“CORRECTING THE RECORD: I believe what I tweet should always be as accurate as I can make it. It turns out the SEC censured and fined tZERO on January 10 of 2022 — a year ago not three weeks ago. Still, I want no part of them, because “censured and fined” any time is not good.”<sup>216</sup>

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<sup>213</sup> CNBC Interview with Jim Chanos. January 30, 2023. Link to excerpt of video: [https://www.reddit.com/r/marketpredictors/comments/10q7t53/on\\_january\\_30\\_2023\\_in\\_an\\_episode\\_of\\_cnbc\\_fast/](https://www.reddit.com/r/marketpredictors/comments/10q7t53/on_january_30_2023_in_an_episode_of_cnbc_fast/)

<sup>214</sup> CEO Adam Aron on X (formerly called twitter). February 3<sup>rd</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1621562778598121474>

<sup>215</sup> Marc Cohodes on X (formerly called twitter). February 3<sup>rd</sup>, 2023. X.com  
Link: <https://twitter.com/AlderLaneEggs/status/1621574561191067648>

<sup>216</sup> CEO Adam Aron on X (formerly called twitter). February 6<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1622498044439588864>

511. On February 7<sup>th</sup>, 2023, the share issuances contemplated by the Forward Purchase Agreement occurred.
512. “As of February 8<sup>th</sup>, 2023, the record date for the Special Meeting, Antara owned 258,439,472 APEs, representing approximately 17.8% of AMC’s total voting power and approximately 27.8% of all outstanding APEs.
513. AMC disclosed that Antara would vote its stock in favor of the Certificate Proposals, as contractually required, thus giving a sizeable head start for the “FOR” votes, especially due to the mirrored voting procedures.
514. At the time, Antara owned 0 shares of Common Stock, “making it highly economically incentivized to push through the conversion of APEs into Common Stock.”<sup>217</sup>
515. As of the record date, AMC had 517,580,416 shares of Common Stock and 929,849,612 APEs (representing 9,298,497 shares of Preferred Stock) issued and outstanding. AMC’s creation and issuance of Preferred Stock with super-voting power (100 to 1), the Depositary Voting Requirement, and the steps taken as part of the Project Popcorn scheme to issue such a large number of APEs with the financial incentive for them to vote for the conversion, effectively usurped the voting power of the Company’s Class A stockholders.
516. On February 9<sup>th</sup>, 2023, the day after the record date for voting purposes, AMC and Antara agreed to a mutual waiver of the lock-up restrictions in the Forward Purchase Agreement, allowing Antara to sell up to 26 million APE units, and AMC to sell up to \$100 million worth of additional APE units. Since the record date for the Special Meeting was February 8<sup>th</sup>, Antara was able to lock in a windfall and still vote all of its APE units in favor of the Certificate Amendments.<sup>218</sup>
517. The reason behind this mutual waiver was concealed from AMC stockholders and was not publicly disclosed. It was part of the "quid-pro-quo" agreement between the AMC Board and Antara, as outlined in Derek Van Zandt's December 8<sup>th</sup>, 2022 email. The condition to lift the restriction was contingent on APE reaching a price above \$3, **which conveniently occurred on February 3rd, 2023, just three days from the record date.**
518. On February 9<sup>th</sup>, 2023, AMC and APE closed at:

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<sup>217</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 144.

<sup>218</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 1 pages 8



February 9<sup>th</sup>, 2023      AMC: \$5.36    APE: \$2.72

519. Antara knew that a conversion of APEs into Common Stock would both provide a windfall to the holders of APEs and result in devastating value destruction for holders of Common Stock. Indeed, not only did Antara acquire a significant amount of APEs, as discussed herein, but it also simultaneously *shorted* the Company's Common Stock (Ticker: AMC). On February 16<sup>th</sup>, 2023, Antara disclosed, via a Form 4, that it had entered into a 2 million share, total return swap position for the synthetic short of AMC Common Stock. Thus, Antara is poised to profit not only from the appreciation in value for the APEs, but also the destruction of value for the Common Stock.

520. "At the time of the APE dividend, AMC did not face any crisis, existential or otherwise, that might justify radical action. The AMC Board nonetheless created and issued APEs to bypass the will of the holders of the Common Stock."<sup>219</sup>

521. "Throughout the year, Aron kept trumpeting the strength of AMC."<sup>220</sup>

522. "In the March 1<sup>st</sup>, 2022 press release issued in connection with the Company's 2021 financial results, Aron stated that "[o]ur *record year-end liquidity* positions AMC well for continued recovery from the impact of COVID and provides AMC with the financial flexibility to opportunistically grow and innovate as we seek to transform our business." He added that:

"As we have repeatedly said, *with the monetary war chest that was provided to us by our shareholders in 2021, AMC is no longer on its heels*. As COVID case numbers are finally declining and vaccination numbers increasing, as our operating results are markedly improving, and as our healthy liquidity allows, AMC is playing on offense again."<sup>221</sup>

523. "Aron repeated this mantra in the May 9<sup>th</sup>, 2022 press release issued in connection with the Company's first quarter results, stating that "[o]ur results for the first quarter of 2022 represent AMC's strongest first quarter in two full years. We continue on our pandemic recovery trajectory, more than quintupling revenues and improving adjusted EBITDA by nearly eighty percent compared to a year ago." Once again, he emphasized the Company's strong liquidity

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<sup>219</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 132

<sup>220</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 133.

<sup>221</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 134.



position, noting that “[AMC’s] operating and capital allocation priorities remain unchanged: *relish and guard our strong liquidity position.*”<sup>222</sup>

524. “Aron continued on this path during the August 4<sup>th</sup>, 2022 earnings call, stating that “[AMC’s] results for the second quarter which were massively ahead of last year’s second quarter, and exceeded market expectations for revenues, adjusted EBITDA and net income.” He noted that “[t]he second quarter was quite the success and our best second quarter in three years,” and emphasized that AMC was recovering from the COVID-19 pandemic quite well, with “[AMC] generat[ing] positive operating cash too in the second quarter of 2022 of \$52 million,” seeing a 2.5x increase in movie goers from the second quarter in 2021 and “positive adjusted EBITDA of \$107 million in the second quarter of 2022, a \$258 million improvement over that figure in Q2 of 2021.”<sup>223</sup>

525. None of AMC’s “internal documents produced pursuant to 8 *Del. C.* § 220 indicate that AMC faced bankruptcy or any other existential threat. AMC may have a considerable amount of debt, but Aron has recently touted the movie industry’s prospects, claiming that a 35% increase in the number of movies to be released in 2023 will provide a “path to eventual pandemic recovery.”<sup>224</sup>

526. “The [AMC] Board documents also do not indicate that the [AMC] Board meaningfully considered any alternatives to APEs and running roughshod over the wishes of the holders of the Common Stock while economically diluting them. For example, materials from the May 4<sup>th</sup>, 2021 and November 3<sup>rd</sup>, 2021 Board meetings reflect that all of the options the Board considered to restructure its balance sheet contemplated selling stock.”<sup>225</sup>

527. “Indeed, AMC was in such a non-precarious financial position that it went out and bought a gold mine, as discussed above. That the Company had the financial ability to invest outside its core competency begs numerous **questions concerning why management is so determined to increase AMC’s share count.**”<sup>226</sup>

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<sup>222</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 135.

<sup>223</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 136.

<sup>224</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 137.

<sup>225</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 138.

<sup>226</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 139.

528. On February 10<sup>th</sup>, 2023 at 3:40 pm, Aron tweeted to AMC stockholders stating,

“Twitter is an incredibly powerful communications vehicle, but sadly it can also be a cesspool of scurrilous attack. I receive so much praise (not all of it deserved), but also venomous untruths are hurled my way. My view: Rise above and ignore the hate, just do what is right!”<sup>227</sup>

529. That afternoon, hundreds of AMC stockholders responded calling out Aron’s tweet, stating

We communicated with you for two years what was being done with the stock, you ignored us, gaslit us, and told us our ideas were illegal as other CEOs went through with them. You deserve worse than vitriol, you deserve to be investigated.

You just can’t handle people not blindly following you anymore. This week was inexcusable and yet you still make gaslighting tweets like this. I hope you are doing what’s in the best interest for share holders but experience is one hell of a teacher.

Unreal. How? How are you the CEO. You can't be writing all your tweets. It translate like: People are being mean because they've uncovered my hidden agenda and connections to short hedge funds.

YOU RIPPED INVESTORS OFF NO (sic) WANTED APE OR REVERSE SPLIT, WE WANTED ACCURATE SHARE COUNT WHICH YOU CANT EXPLAIN, INVESTORS DONT WANT YOU AS OUR CEO

530. After being called out by AMC retail investors on Twitter for thirty minutes, Aron tweeted again in response to the exposure,

“It continues to astound and confound me that some out there hypothesize that I am not on the side of retail investors. I will say it over and over. I own or have an economic interest in millions of AMC shares and APE units. I am a retail shareholder. Of course I am on your side!”<sup>228</sup>

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<sup>227</sup> CEO Adam Aron on X (formerly called twitter). February 10<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1624146363561742379>

<sup>228</sup> CEO Adam Aron on X (formerly called twitter). February 10<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1624153851573010438>

531. Once gain AMC retail investors took to Twitter to expose Aron,

Didn't you have shares in that resort you destroyed in the Caribbean when you were CEO? I see a pattern. You're on your side @CEOAdam  
With friends like you who the hell needs enemies!

Your a con man and a grifter. You managed to monetize retail investors contempt for the "Man" and milk it for tens of millions. Your a despicable excuse for a CEO ... at least use your ill gotten gains to purchase a better wig!

HOW SO?? DID U ASK RETAIL TO HELP GET #AMC OUT OF DEBT??  
DID U ADDRESS THE FTD'S? DID U COMPLETE A SHARE COUNT?  
WHY KEEP DILUTING #AMC STOCK WHEN NOT NECESSARY?  
WHY ALLOW BANKS AND HF'S TO NAKED SHORT OUR STOCK?  
WHICH ONE OF THE ABOVE DOES "U BEING ON OUR SIDE"  
IDENTIFY?

Tell us the truth ! Why you didn't rise capital selling APE to retail before going to Antara ? Good start.

U screwed us dude. Everyone knows it. Your shares are given to you and you cashed in 2 million of your other "earned shares." We are not stupid.

Isn't it incredibly SUS when other CEO's are vocal about naked shorts and our beloved CEO Lord Adam is dead silent about that?

then why would you want a stock split. that usually a recipe for disaster as most stocks go back to the original price or lower

532. Six minutes later, Aron once again tweeted in response to being called out by AMC retail investors, following years of hearing lip service,

"It may boil down to this. Many of you are frustrated, strongly urging us to address market forces that you are convinced are unfair. We continuously think about what actions would be wise and CREDIBLE. Certainly good ideas: Build up our cash reserves and smartly lead AMC forward." <sup>229</sup>

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<sup>229</sup> CEO Adam Aron on X (formerly called twitter). February 10<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1624155466866606080>



533. Once gain AMC retail investors took to Twitter to expose and call out Aron, stating

Why didn't you give retail a chance to buy the debt? There are many of us that would buy 10's of thousands more shares if you offered this. However, you are further diluting for Pennie's on the dollar. Dragging your feet with popcorn and the credit card. WHY?

Dilution was voted down. You did it anyway using ape. Then you sold 28% of Ape float for \$0.66/share, only raised \$360 mil while retail watched the price drop from \$10 to \$0.60. AND you refuse to address unfair market forces. Frustrated is an understatement

Partner with @rogerhamilton

he's fighting #NakedShorts hard. Adam you're not even admitting there is naked shorting let alone fighting to help us. I'm an investor in both companies and Roger is protecting his investors. Follow his lead please.

What's not CREDIBLE is your repeated denial that synthetic shares don't exist.

We have evidence that \$AMC is at the top of the list of the most manipulated stocks in the US Stock market. In NOV 2019, during an interview following Q3 '19 Earnings report, you acknowledged shortselling being used to suppress #AMC's price. The fact is, it has never stopped!

534. On February 11<sup>th</sup>, 2023, at 9:44 am, Benjamin Chuchla, an investment analyst at Antara, sent an email titled - AMC Debt Capacity, to Himanshu Gulati and Chetan Bansal. Chetan Bansal joined Antara in early 2020 and serves as Partner and Co-Head of Investment Research. The email reads,

"H- we've done some detailed write ups on this which I can pass along if you would like But in summary, available debt capacity without any votes / amendments should be

- About \$300 m senior lien debt (could be 1L or 1.5L)
- \$50m of non-guarantor restricted subsidiary debt
- \$150m Pari 2L debt. Can do up to 200 total but only 150 can be secured
- \$75m Pari 2L debt only if used to refinance the unsecured and only if that refinancing occurs below 55c

And of course if the 2L amend their absolute provision on unrestricted investments, all bets are off to the tune of 2.25bn+ of investment capacity.”<sup>230</sup>

535. Contemporaneously, Himanshu Gulati responds to Benjamin Gulati’s email stating,

“Call me ben (sic)

Thanks”<sup>231</sup>

536. The emails from Antara reveal that AMC had alternative options to enhance liquidity, aside from issuing the dilutive APE units. One such option was amending their 2L debt agreements, which could have provided over \$2.25 billion in liquidity—a considerably larger amount than what was raised through the APE units.

537. Later that night, at 10:22 pm EST, Aron tweeted to AMC stockholders, stating

“Yesterday I tweeted an “M” by mistake, but many of you thought I was being less than candid in the denial, and that the M must have meant something. Nope, just a tweeting error. But today I am tweeting this, and it does mean something: “Y” ”<sup>232</sup>

538. Subsequently, AMC retail investors responded stating,

He’s saying vote “Yes” to more dilution and shorts continuing to be able to manipulate the stock. Doesn’t matter anyway the vote is BS just an ancient

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<sup>230</sup> Rose Izzo’s lawyer later supplemented the record with documents referenced in their objection and approved to release publicly from discovery, this document contains 2 related emails from Antara. Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91953283/91953284/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91953283/91953284/)

<sup>231</sup> Rose Izzo’s attorney later supplemented the record with documents referenced in their objection and approved to release publicly from discovery, this document contains 2 related emails from Antara. Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91953283/91953284/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91953283/91953284/)

<sup>232</sup> CEO Adam Aron on X (formerly called twitter). February 10<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1624609962428346369>

devisive tactic to make the people fight amongst each other. Apes were together until this vote stuff came along.

The reverse and merger will bring the price back to the January 21 squeeze price accept this time you will own 10x less shares! Shorts get to cover and you gain 0 value. Meanwhile AA eats popcorn and tells you to feel good about heartbreak! The ultimate troll!

"Y" won't you respond to the Roger Hamilton, the CEO of Genius Group? "Y" are you helping hedgefunds and screwing over shareholders? Don't ask "Y" when lawsuits are filed against you for failing to uphold your fiduciary duties to us shareholders.

Adam, "Y" is IMAX currently at \$16.37 share and AMC currently at \$4.43 per share? "Y" don't you explain to your shareholders how you personally, and deliberately destroyed their financial futures. Many shareholders are not stupid, unlike some others. We know you're screwing us!

539. On February 14<sup>th</sup>, 2023, AMC issued its Definitive Proxy Statement advising of a Special Meeting of stockholders scheduled for March 14<sup>th</sup>, 2023 where stockholders will vote on the following proposals:

**Proposal No. 1:** To approve an amendment to the Charter to increase the total number of authorized shares of Class A common stock from 524,173,073 shares to 550,000,000 shares;

**Proposal No. 2:** To approve an amendment to the Charter to effectuate a reverse stock split at a ratio of one share of Class A common stock for every ten shares of Class A common stock, which together with the increase in the number of authorized shares of Class A common stock, shall permit the full conversion of all outstanding shares of Preferred Stock into shares of Class A common stock.<sup>233</sup>

540. In the Proxy, AMC disclosed that, "for the Certificate Proposals to carry, each requires the affirmative vote of at least a majority of the outstanding Common Stock and Preferred Stock, voting together as one class."<sup>234</sup>

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<sup>233</sup> Link: [https://www.sec.gov/Archives/edgar/data/1411579/000110465923020458/tm232700-2\\_def14a.htm](https://www.sec.gov/Archives/edgar/data/1411579/000110465923020458/tm232700-2_def14a.htm)

<sup>234</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 141.



541. AMC also disclosed that, “consistent with the Deposit Agreement, Computershare would “will vote the . . . Preferred Stock represented by such non-voting APEs proportionately with votes cast ‘FOR,’ ‘AGAINST,’ or ‘ABSTAIN’ pursuant to instructions received from the other APE holders.” Additionally, the Proxy belatedly disclosed:

Under the terms of the deposit agreement, if the Depository does not receive timely voting instructions with respect to any Series A Preferred Stock represented by APEs, including broker “non-votes,” the Depository will vote the Series A Preferred Stock represented by such non-voting APEs proportionately with votes cast “FOR,” “AGAINST,” or “ABSTAIN” pursuant to instructions received from other APE holders.

\* \* \*

Broker non-votes of APEs will be treated by the Depository as not having been voted, and under the terms of the deposit agreement, the Depository will vote the Series A Preferred Stock represented by such non-voting APEs proportionately with votes cast pursuant to instructions received from the other APE holders.”<sup>235</sup>

542. “The Proxy confirms that the Deposit Agreement allows Computershare to vote APEs that otherwise would be treated as broker non-votes, as well as APEs that are not even present at a meeting, on this mirrored basis. As such, the Deposit Agreement effectively allows the Company to sidestep the New York Stock Exchange (“NYSE”) prohibition on brokers voting uninstructed shares on non-routine proposals, such as each of the Certificate Proposals to be voted on at the Special Meeting.”<sup>236</sup>

543. “Additionally, because the Certificate Proposals require approval of at least a majority of AMC’s outstanding shares, each proposal needs at least 723,715,015 affirmative votes to carry. Absent the provision in the Deposit Agreement allowing Computershare to “vote the Preferred Stock represented by the [APEs] proportionately with votes cast pursuant to instructions received from the other Holders,” any share that is not an affirmative vote would have the practical effect of an “against” vote because such vote would not count towards a majority of the Company’s shares. This would ordinarily include “against” votes, abstentions, uninstructed equity units, or equity units absent from the Special Meeting altogether.”<sup>237</sup>

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<sup>235</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 145.

<sup>236</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 146.

<sup>237</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 147.

544. “Through the Deposit Agreement, however, the AMC Board will cause Computershare to vote certain of these votes for the Certificate Proposals. Thus, by giving Computershare the ability to cast votes for APEs even if their holder does not provide voting instructions or show up to vote, the AMC Board is making the APE portion of the vote effectively a majority of votes cast standard.”<sup>238</sup>

545. “And because of the Forward Purchase Agreement with Antara, the AMC Board has already guaranteed that at least 27.8% of the APEs that will be present at the Special Meeting will be voted for the Certificate Proposals.”<sup>239</sup>

546. While the APEs were designed to be identical to shares of AMC’s Common Stock, they have been trading at just a fraction of the price. On February 14<sup>th</sup>, 2023, AMC’s Class A common stock and APES closed at:

**February 14<sup>th</sup>, 2023    AMC: \$4.50    APE: \$2.34**

547. As a result, it is in an APE holder’s self-interest to vote in favor of the aforementioned proposals. And the number of APE holders entitled to vote is nearly double the number of common stockholders. Combined with Antara’s agreement to vote all of its shares in favor of the proposals— and the Depositary Voting Requirement contained in the Deposit Agreement— AMC’s Board has ensured that it will receive an increase in the total number of authorized shares of common stock it can issue regardless of what the common stockholders want.

548. The common stockholders voting rights were adversely affected by these actions, they have not been provided with a vote as a class, and their voting rights have been usurped by the AMC Board’s actions.

549. Between creating the economic incentives at play, arranging for Computershare to vote absentee and uninstructed APEs on a pari passu basis, and locking up Antara’s voting commitment, the AMC Board has effectively rendered approval of the Certificate Proposals a fait accompli.

550. Upon careful analysis, it becomes evident that AMC devised a cunning plan to convert all the maximum possible 5 billion APE units into AMC Common Stock, **thereby subjecting**

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<sup>238</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 148.

<sup>239</sup> The Unredacted Operating Complaint (Munoz and Franchi) for Consolidated C.A. 2023-0215-MTZ (Del. Ch.) case. See paragraph 149



**AMC Common Stockholders to astronomical future dilution.** This covert strategy revolves around the implementation of a 10:1 reverse stock split in conjunction with the amendment of the authorized amount of AMC common shares to 550 million after the reverse split takes effect. It is crucial to grasp the implications of this maneuver. While the number of outstanding AMC common shares will decrease by a factor of 10 to approximately 51.68 million, this little fraction will represent a mere 9.4%<sup>240</sup> of the newly authorized shares of 550 million. Simultaneously, the conversion of around 92.4 million APE shares into AMC common will result in a new float of approx. 144.8 million outstanding AMC shares. Astoundingly, this leaves a staggering 405.2 million shares authorized for further dilution, effectively granting Aron and the AMC Board immense power to further significantly dilute the ownership of existing shareholders. The calculation of these figures is not a mere coincidence. It is notable that 405.2 million shares correspond to approximately 4.052 billion shares or units before the 10:1 reverse stock split, aligning precisely with the 4 billion APE units that were not created and issued, with the remaining 40 million AMC preferred shares coming into play.

551. On February 17<sup>th</sup>, 2023 at 1:14 pm, Sean Goodman drafted an email to Eddie Gladbach, and cc'd Aron and Keven Connor with the subject title "Tracking the Vote" stating,

"Hi Eddie,

Can I ask you to send a daily vote tracker to us so that we can monitor the progress of the vote? Thanks very much.

Sean"<sup>241</sup>

**February 20<sup>th</sup>, 2023 Two Class Actions Lawsuits are filed against the AMC Board and Former Board Members**

552. On February 20<sup>th</sup>, 2023, at 4:09 pm EST, ACER filed its class action complaint in the Chancery Court in the state of Delaware, asserting claims for breach of fiduciary duty and violation of 8 Del. C. § 242(b)(2), declaratory, injunctive and equitable relief against AMC, Aron, current and former Board members Howard Koch, Kathleen Pawlus, Anthony Saich, Philip Lader, Gary Locke and Adam Sussman.

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<sup>240</sup>  $516,820,595 / 10 = 51,682,060$ ;  $51,682,060 / 550,000,000 = 0.094 = 9.4\%$ ; See also SEC Filing DEF 14A, Page 25, Annex A, Source:

[https://www.sec.gov/Archives/edgar/data/1411579/000110465923020458/tm232700-2\\_def14a.htm](https://www.sec.gov/Archives/edgar/data/1411579/000110465923020458/tm232700-2_def14a.htm)

<sup>241</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/)

[0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 928



553. Also on February 20<sup>th</sup>, 2023, at 4:47 pm EST, retail investors Munoz and Franchi filed their class action complaint in the Chancery Court, asserting a claim for breach of fiduciary duty and seeking to enjoin the APEs from voting at the Special Meeting against Aron, current and former Board members Denise Clark, Howard Koch, Philip Lader, Gary Locke, Kathleen Pawlus, Keri Putnam, Anthony Siach, Adam Sussman and Lee Wittlinger.

554. The two class action complaints were filed 38 minutes apart.

555. The Franchi and Munoz public verified complaint, filed on the Chancery Court docket, contains **27 redacted averments and exhibits. These redactions are a result of records produced in response to a demand made under 8 Del. C. § 220.**

556. The three plaintiffs, Franchi, Munoz and ACER sought expedited treatment of their requests for injunctive relief, which was scheduled to be heard on February 23<sup>rd</sup>, 2023.

557. On February 20<sup>th</sup>, 2023 at 10:28 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title "RE: Tracking the Vote" stating,

"See attached for preliminary vote details.

Shares Voted:

**AMC 64.5 million**

**APE 141 million**

Percentage Voting "For" Proposals:

AMC 77%

APE 90%

Combined 86%

Eddie"<sup>242</sup>

558. On February 22<sup>nd</sup>, 2023 at 12:53 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title "RE: Tracking the Vote" stating,

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<sup>242</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 928

“Updated preliminary voting results as of noon today are attached and summarized below:

Shares Voted:

**AMC 81.9 million out of 517,580,416 (15.8%)**

**APE 165.2 million out of 929,849,612 (17.8%)**

Percentage Voting “For” Proposals:

AMC 75.9%

APE 88.4%

Combined 84.3%

Eddie”<sup>243</sup>

### **The NYSE is Given Written Notice**

559. On February 23<sup>rd</sup>, 2023, AMC shareholder Brian Tuttle (“Brian Tuttle”), drafted an email with the subject titled: **NOTICE OF BREACH OF NYSE AMERICAN COMPANY GUIDE SECTION 122**, and emailed the NYSE, to the following two email accounts, [ListingManager@nyse.com](mailto:ListingManager@nyse.com) and [nysealert@nyse.com](mailto:nysealert@nyse.com), stating,

“Please be advised:

### **YOU ARE HEREBY NOTICED OF THE FOLLOWING:**

AMC Entertainment Holdings, Inc (NYSE: "AMC"NYSE:"APE") is in breach of NYSE American Company Guide Section 122, as grounds the undersigned states as follows:

1. On July 28<sup>th</sup>, 2022, the AMC Entertainment Holdings, Inc board of directors issued 10,000,000 shares of Preferred Stock.
2. On August 4, 2022, AMC amended its Certificate of Designations granting super voting powers to the Preferred Stock. Each Preferred Share was designed to be equivalent in voting rights to 100 Common Shares. The amendment to the Certificate of Designations was done so without the authorization of shareholders as required by Section 242 of Delaware General Corporate Law.
3. By definition the Preferred Stock issued is "Super Voting Stock".

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<sup>243</sup> Link: [https://www.docketalarm.com/cases/Delaware State Court of Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware%20State%20Court%20of%20Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 927

4. The Certificate of Designations also establishes a conversion rate that allows for the Preferred Stock to be converted to common shares.

5. NYSE American Company Guide Section 122 provides:

[V]oting rights of existing shareholders of publicly traded common stock registered under Section 12 of the Exchange Act cannot be disparately reduced or restricted through any corporate action or issuance. Examples of such corporate action or issuance include, but are not limited to, the adoption of time-phased voting plans, the adoption of capped voting rights plans, the issuance of SUPER VOTING STOCK, or the issuance of stock with voting rights less than the per share voting rights of the existing common stock through an exchange offer.” (emphasis added)

6. The NYSE Company Guidelines explicitly state a Super Voting Stock class cannot be eligible to convert into a lower voting class, as is the case here.

WHEREFORE, paragraphs 1-6 establish AMC Entertainment Holdings, Inc has breached NYSE American Company Guide Section 122.

\*NYSE was previously noticed, by the undersigned, on 2/20/2022 that AMC Entertainment Holdings, Inc was in breach of Rule 312 of the NYSE Company Manual. (A copy of that email is herein incorporated below).

Accordingly, the NYSE exchange must act to protect the interests of investors relying on the NYSE to govern corporations trading on the NYSE exchange. The immediate de-listing of AMC Entertainment Holdings, Inc equity securities is necessary to protect those interests.

Respectfully submitted,

Ad Hoc Committee of AMC Common Stock Holders

B. Tuttle

560. On February 23<sup>rd</sup>, 2023 at 12:32 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title “RE: Tracking the Vote” stating,

“Updated preliminary voting results as of noon today  
are attached and summarized below:



Shares Voted:

**AMC 90.5 million out of 517,580,416 (17.5%)**

**APE 242.7 million out of 929,849,612 (26.1%)**

Percentage Voting "For" Proposals:

AMC 77.0%

APE 91.7%

Combined 87.7%

Eddie" <sup>244</sup>

561. On February 24<sup>th</sup>, 2023 at 2:01 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Kevin Connor and John Merriwether with the subject title "RE: Tracking the Vote" stating,

"Updated preliminary voting results as of noon today are attached and summarized below:

You will notice that there was a large jump in APE votes today. That is because Antara has voted their shares held at Computershare. Privileged – Redacted Adam, during your call with VPs this afternoon, you may want to remind them all to be sure to vote their shares.

Shares Voted:

**AMC 94.2 million out of 517,580,416 (18.2%)**

**APE 445.7 million out of 929,849,612 (47.19%)**

Percentage Voting "For" Proposals:

AMC 76.8%

APE 95.22%

Combined 92.0%

Eddie" <sup>245</sup>

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<sup>244</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 927

<sup>245</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 pages 926-927

562. Eddie Gladbach's February 24<sup>th</sup>, 2023, 2:01 pm email notifies Sean Goodman, Aron, Kevin Connor, and John Merriwether that Antara has voted their APE shares held at Computershare on that day, resulting in a significant increase in APE votes. The difference between the APE votes cast on February 24<sup>th</sup>, 2023 (445.7 million out of 929,849,612, or 47.19%) and February 23<sup>rd</sup>, 2023 (242.7 million out of 929,849,612, or 26.1%) indicates that Antara may have **only casted 203 million votes out of the 258,439,472 million shares they owned during this period** (or it is possible votes were divided were cast at separate times by Antara or Antara affiliated funds).

563. On February 27<sup>th</sup>, 2023, the presiding judge over the Franchi, Munoz and ACER matter, Judge Zurn, entered the Status Quo Order, which, among other things, allowed AMC to hold the Special Meeting and solicit and tabulate any votes in connection therewith but prevented AMC from effectuating the Certificate Amendments if and once they were approved (i.e. the Reverse Split and Conversion). A preliminary injunction hearing was set for April 27<sup>th</sup>, 2023, and the hearing that was scheduled for March 10<sup>th</sup>, 2023 was canceled.

564. With Judge Zurn entering the Status Quo Order, she basically allowed the Special Meeting vote to proceed without ensuring that AMC and APE stockholders had access to essential information, including discovery documents and access to the 27 redacted averments from the Franchi and Munoz complaint, along with exhibits. **Judge Zurn's decision essentially ensured that AMC shareholders voted blindly on the proposals that directly affected their investment.**

565. On February 27<sup>th</sup>, 2023 at 1:14 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Kevin Connor and John Merriwether with the subject title "RE: Tracking the Vote" stating,

"Updated preliminary voting results as of noon today  
are attached and summarized below:

Not a lot of change from Friday.

Shares Voted:

**AMC 97.8 million out of 517,580,416 (18.9%)**

**APE 450.2 million out of 929,849,612 (48.4%)**

Percentage Voting "For" Proposals:

AMC 76.7%

APE 95.1%

Combined 91.8%

Eddie”<sup>246</sup>

566. On February 28<sup>th</sup>, 2023 at 1:03 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc’d Aron, Keven Connor and John Merriwether with the subject title “RE: Tracking the Vote” stating,

“Updated preliminary voting results as of noon today  
are attached and summarized below:

Shares Voted:

**AMC 100.7 million out of 517,580,416 (19.5%)**

**APE 454.9 million out of 929,849,612 (48.9%)**

Percentage Voting “For” Proposals:

AMC 76.3%

APE 94.9%

Combined 91.5%

Eddie”<sup>247</sup>

567. On February 28<sup>th</sup>, 2023, Daniel Meyer, one of the Lead Counsel for ACER, Franchi and Munoz effectuated service on the AMC Defendants with their first set of requests for the production of documents via File & Serve Xpress in the 2023-MTZ -215 and 2023-MTZ -216 matter.

568. Also on February 28<sup>th</sup>, 2023, Michael Barry, one of the Lead Counsel for ACER, Franchi and Munoz effectuated service on the following third parties, Citigroup Global Markets Inc., AMC’s financial advisor, and D.F. King & Co., Inc., AMC’s proxy advisor, with subpoenas duces tecum and ad testificandum.

**February 28<sup>th</sup>, 2023 Earnings Call Adam Aron's Seven Reasons to Vote Yes on the Three Proposals**

569. On February 28<sup>th</sup>, 2023, AMC hosted an earnings call. Aron concluded the earnings call by addressing the March 14<sup>th</sup>, 2023 Special Stockholders’ Meeting stating,

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<sup>246</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 926

<sup>247</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 925



“To that end, I'd like to utilize the remainder of my formal remarks today to discuss the upcoming March 14 Special Stockholders' Meeting and the importance of the proposals on which our shareholders are already voting. Last August, we issued 516,800,000 APE preferred equity units as the dividend to holders of our AMC common shares on a one-for-one basis. The primary goals of issuing the dividend was to provide AMC with a new currency that could be used to strengthen our balance sheet by generating cash, bolstering our liquidity to reduce our debt, and to allow us to grow. And that is precisely what the APE units have done. Since September of 2022, the creation of APE units resulted in AMC successfully raising \$314 million of gross cash proceeds and allowed us to reduce the principal balance of our debt by more than \$221 million, most of which was profitably repurchased at a substantial discount. Indeed, AMC is unequivocally a stronger company today as a result of the creation of the APE dividend, and it's allowing us to raise cash and reduce debt. I might add that came amid a lot of press speculation that we'd be unsuccessful in doing so. To the naysayers and doom tellers, you know what I say, choke on that. However, despite having the same economic and voting rights as our AMC common shares, APE preferred equity units have **consistently traded at a mysterious and substantial discount to AMC common shares**. This discount creates inefficiencies that increases our cost of capital and causes unnecessary and preventable dilution. So, after careful thought, the AMC Board of Directors is presenting important proposals for shareholders to vote on at the upcoming special meeting on March 14, 2022. These proposals are designed to protect the long-term value of a shareholders' investment in AMC while still providing AMC with the flexibility necessary to continue along our recovery trajectory in a challenging environment. As you already know, the two key proposals are to, one, increase the number of authorized AMC common shares from 524 million to 550 million and combine the AMC common shares and APE preferred units; second, to effect a reverse stock split of one share for every 10, which, together with the increase in authorized common shares permits that automatic conversion of APE units into AMC common stock. Our board and I strongly believe that's in the best interest now of AMC shareholders to convert APE units into AMC common shares, thereby simplifying our capital structure and eliminating the gap between the prices of APE units and of AMC shares. As AMC's single largest individual shareholder with millions of AMC shares and APE units. I have a vested interest in the outcome of this election because my net worth rises as AMC strengthens and my net worth falls as AMC gets weaker. I currently own outright some 3.7 million AMC shares or APE units and have a further economic interest and an additional 4.5 million APE units or AMC shares as a result of granted but unvested stock. In total, I have some 8.2 million AMC shares or AMC units. You know what that means? It means that

my interests are directly aligned with those of our shareholders. **I am not some hedge fund plan or Trojan Horse as a few of the more bizarre conspiracy theories go.** I'm on the side of the retail investor because I am myself a retail investor. And I'd like to share with you the seven reasons why I have voted yes, voting for the proposals that are being recommended by the board. Before I do so, however, I should point out that litigation has been brought in the Delaware Court of Chancery attempting to block our shareholder proposals, and you are right to vote on them. **We believe such litigation is without merit, that our actions have been totally lawful and consistent with our charter, and we will vigorously defend our position in this matter.** The court has ordered that the March 14 vote shall take place on schedule, but then any implementation action resulting from the vote be held in advance until the court rules on the substance of the claims being made. So, the vote is on, and it is on now. I urge our shareholders to vote now so that your voice can be heard. And because I think it's the right thing for me to do and for you to do. I urge you to vote for the proposals with me. Here's why. **First**, a more resilient AMC. Having the flexibility to efficiently and opportunistically tap both the equity and debt capital markets results in a more resilient company. Were it not for our ability to have raised both equity and debt over the past three years, AMC would not have survived the pandemic that caused a material decline in our business activity. **Second**, reduced capital raising inefficiencies associated with APE units trading at a discount to AMC shares. Converting APE units to AMC shares will result in a single price for all AMC equity. This single price eliminates the inefficiency inherent in the discount between APE units and AMC common stock and will allow AMC to more efficiently raise equity capital at the most attractive terms in the future. **Third**, enhance the ability to raise cash and increase liquidity. While I believe AMC is currently in a strong liquidity position with more than \$840 million of available liquidity at the end of December 22, the ability to efficiently raise additional liquidity when needed has proven to be critical for this company in the past. And depending upon the path and timing of recovery may be critical to our survival, again, in the future. **Fourth**, strengthen AMC's balance sheet. AMC's balance sheet is expected to strengthen over time as the box office grows. At the same time, as we have demonstrated in recent months, there continue to be attractive opportunities for us to use available equity or equity proceeds to buy back debt or exchange debt for equity at a discount to face value, which greatly benefits shareholders. **Fifth**, simplify ownership in AMC. Consolidating ownership of AMC into one single class for all shareholders eliminates the added complexity that some brokerages have imposed on their clients in the holding or trading of our preferred equity securities. In addition, the single class of equity eliminates the potential for hedge funds or other investors to engage in arbitrage trading strategies between the APE and AMC securities. **Sixth**, position AMC to transform into a



stronger, more diversified company. A single equity class will better allow us to pursue attractive shareholder value creation opportunities to diversify and to transform our business. And last, **seventh**, create long-term value for AMC. A vote for the resolutions is a vote in favor of the long-term value of AMC. Since we announced our intention to hold a shareholder vote to convert APE units into AMC shares, the total equity value of our company has increased. The other matter of consequence being discussed at the March 14 shareholder meeting is the one for tender of our stock split. So, let me quickly address that topic. If you have 10 \$1 bills in your pocket and you exchange them for 1 \$10 bill, you still have \$10 either way. If you would have 10 \$10 bills in your pocket, and you exchange them for 1 \$100 bill, you'd still have \$100 either way. This reverse split in and of itself should be neutral. However, for a variety of reasons, including the technical listing rules of stock exchanges, we think it's unwise for our shares to be trading at levels in the single digits. The reverse split also creates room to allow for the full conversion of APEs into common stock, which we also think is a good idea for each of you, as I previously explained, and creates the capacity for common stock to be issued -- adds equity in the future. In my view, I believe that there is **no compelling argument why our shareholders should generally be averse to reverse stock split**. As I stated earlier, having the flexibility to continue to raise capital as we navigate through our recovery is crucial to AMC's future success and has thus far kept us from the state of several of our competitors who have been forced to seek bankruptcy protection. Where we to be (sic) somehow the pride of this cash-raising capability, our future may not nearly be so bright as it appears currently. Indeed, our future could turn quite bleak in just a blink of an eye. I cannot emphasize enough that while things are looking up now, our success could literally vaporize in an instant if we misstep. The reason we have succeeded to date is that in our opinion, we have threaded the needle perfectly heretofore during this pandemic. But make no mistake, the need to continue to thread the needle perfectly going forward is unchanged at AMC Entertainment. Fortunately, we're pretty good at this. And we've been at it a while and we know what we're doing. I know I have about 3 million or 4 million friends out there who like to give me advice. But I'd like to remind you, we've done a pretty good job of stewarding this company during tough times. Avoiding a dire fate is a commitment that I personally made to our shareholders in the earliest days of this global pandemic when our revenues went to zero overnight and stayed there for months. I remain steadfast in that commitment to you today. Every action that AMC has taken is in direct support of that commitment. Despite what the naysayers or the short sellers of those that wish us harm would have you believe, our mission now is clear. And it's the same exact cause that so many of our shareholders joined and embraced way back in the dark days of 2020 and early 2021. You all remember the hashtag, Save AMC. That's the



report for Q4 2022. Sean, let's now move to questions, both from our industry analysts and from our shareholders.”<sup>248</sup>

570. On March 1<sup>st</sup>, 2023 at 8:51 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title “RE: Tracking the Vote” stating,

“Updated preliminary voting results as of noon today  
are attached and summarized below:

Shares Voted:

**AMC 104.2 million out of 517,580,416 (20.1%)**

**APE 459.6 million out of 929,849,612 (49.43%)**

Percentage Voting “For” Proposals:

AMC 75.6%

APE 94.5%

Combined 91.0%

Eddie”<sup>249</sup>

571. On March 2<sup>nd</sup>, 2023, the Franchi, Munoz and ACER actions were consolidated, the Franci and Munoz complaint was designated the operative complaint, and ACER, Franchi, and Munoz were jointly appointed as Lead Plaintiffs. The operative complaint was assigned with the following case number 2023-0215-MTZ. The law firms at Bernstein Litowitz Berger & Grossmann LLP, Fields Kupka & Shukurov LLP, and Grant & Eisenhofer P.A. were appointed Lead Counsel.

572. While the operative complaint extolled the virtue of retail stockholders as “unlikely hero[es] . . . banding together and buying massive amounts of AMC stock, beginning in January 2021” only Munoz fit that description.

**Table: Lead Plaintiffs Share Ownership**

|              | <b>Common Shares</b> | <b>APE Units</b> |
|--------------|----------------------|------------------|
| <b>Munoz</b> | 53,787               | 3,065            |
| <b>ACER</b>  | 879                  | 879              |

<sup>248</sup> AMC Entertainment Holdings, Inc. (AMC) CEO Adam Aron on Q4 2022 Results - Earnings Call Transcript. Seeking Alpha. Posted on Feb. 28, 2023. <https://seekingalpha.com/article/4583134-amc-entertainment-holdings-inc-amc-q4-2022-earnings-call-transcript> Accessed on May 11, 2023

<sup>249</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 925

Franchi 32 0

573. Franchi, Munoz and ACER faced very different risks:

- **Munoz** would suffer enormous losses if the APEs converted: according to the discovery documents, he appears to have exchanged most of his APE dividend into common shares and purchased more common stock on margin.
- **Franchi** purchased his handful of common shares in November 2022, after AMC created the APEs, despite having sworn that he owned shares “at the time of the wrongs complained of” in his complaint.
- **ACER** never purchased shares alongside the “unlikely hero[es]”: It sold most of its stake to retail holders during the short squeeze. Also ACER’s ownership documentation had discrepancies that were not fully vetted by the Court. The documentation that ACER submitted lists the name of another entity - not ACER - owning the shares. ACER did not disclose this relationship on their affidavit, which calls into question whether ACER actually owned any shares during the relevant period.

574. Also on March 2<sup>nd</sup>, 2023, the parties in the Franchi, Munoz and ACER matter submitted, and the Court entered, the Scheduling Order governing discovery in this action, culminating in a preliminary injunction hearing on April 27<sup>th</sup>, 2023.

575. On March 2<sup>nd</sup>, 2023, Kenny Gallagher, attorney for the AMC Defendants, effectuated service on Lead Counsel for ACER, Franchi and Munoz with AMC Defendants’ First Request for Production of Documents by File & Serve Xpress in the consolidated action No. 2023-0215-MTZ.

576. On March 2<sup>nd</sup>, 2023 at 1:57 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc’d Aron, Keven Connor and John Merriwether with the subject title “RE: Tracking the Vote” stating,

“Updated preliminary voting results are attached and summarized below:

Shares Voted:

**AMC 106.0 million out of 517,580,416 (20.5%)**

**APE 462.3 million out of 929,849,612 (49.7%)**

Percentage Voting “For” Proposals:

AMC 75.2%

APE 94.4%

Combined 90.8%

Eddie”<sup>250</sup>

577. On March 3<sup>rd</sup>, 2023 at 1:03 pm EST, Aron continued to advocate for the Yes vote by tweeting out,

“World leader in corporate governance and responsible investment advice, ISS, evaluates companies with a critical eye. Today, it recommended AMC/APE holders vote in favor of the 3 proposals at our March 14 meeting. Your voting YES (“FOR”) is crucial for AMC to survive and thrive.” <sup>251</sup>

578. On March 3<sup>rd</sup>, 2023 at 5:47 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc’d Aron, Keven Connor and John Merriwether with the subject title “RE: Tracking the Vote” stating,

“Updated preliminary voting results are attached and summarized below:

Shares Voted:

**AMC 111.5 million out of 517,580,416 (21.53%)**

**APE 473.7 million out of 929,849,612 (50.95%)**

Percentage Voting “For” Proposals:

AMC 75.3%

APE 94.3%

Combined 90.7%

Eddie” <sup>252</sup>

579. On March 3<sup>rd</sup>, 2023 at 7 pm EST, Aron held a meet-and-greet event at AMC Livonia 20 in Livonia, Michigan for a special screening of CREED III. That evening, Aron addressed the AMC stockholders that were sitting in the crowd, stating in part:

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<sup>250</sup>Link:[https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 924

<sup>251</sup> CEO Adam Aron on X (formerly called twitter). March 3<sup>rd</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1631716847513944064>

<sup>252</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 924



“Between September of 2020 and June 2021 we raised 2.2 billion dollars by selling stock to the public - it's called equity - and we put that 2.2 billion dollars in the bank and we didn't do anything with it other than support our movie theater company except I spent 28 million dollars to buy a quarter of goldmine which people think I'm nuts but **we're gonna make so much money from that investment of that goldmine.** Fundamentally we will quadruple our investment in that gold mine it's going to take two to four years to do it but I've said it publicly he who laughs last, laughs best and there's gonna be a lot of crow eating coming two three four years from now and I'm not going to be the one eating the damn crow.”<sup>253</sup>

580. On March 6<sup>th</sup>, 2023 at 1:48 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title “RE: Tracking the Vote” stating,

“If you got my prior email, please disregard. It did not reflect updated support percentages.

Updated preliminary voting results are attached and summarized below:

Shares Voted:

**AMC 118.24 million out of 517,580,416 (22.9%)**

**APE 482.04 million out of 929,849,612 (51.8%)**

Percentage Voting “For” Proposals:

AMC 75.2%

APE 94.1%

Combined 90.4%

Eddie”<sup>254</sup>

581. On March 7<sup>th</sup>, 2023 at 3:06 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title “RE: Tracking the Vote” stating,

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<sup>253</sup> Aron in Livonia, Michigan (AMC Livonia 20). Youtube Video of Aron's March 3<sup>rd</sup>, 2023 Meet and Greet in Livonia. See the 19:42 mark in the video for this quote. Link:

<https://www.youtube.com/watch?v=fc469vsQt0A&t=394s>

<sup>254</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/)

[0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 923

“Updated preliminary voting results are attached and summarized below:

Shares Voted:

**AMC 133.3 million out of 517,580,416 (25.8%)**

**APE 505.5 million out of 929,849,612 (54.4%)**

Percentage Voting “For” Proposals:

AMC 74.3%

APE 93.53%

Combined 89.5%

Eddie”<sup>255</sup>

582. Later that evening at 6:26 pm EST, Aron tweeted out to AMC stockholders stating,

“Many of you, and we, are aware that AMC Entertainment has been on “The Threshold List” for 3+ weeks, indicating a number of FTD’s. Some of you may be pleased to learn that we have contacted both FINRA and the NYSE asking that they both look closely at the trading of our stock.”<sup>256</sup>

583. Following Aron’s tweet, AMC retail investors tweeted back at Aron stating,

Pandering to your base again? Let’s see the letter.

Gee @CEOAdam

we’re just surprised that you noticed.

So does that mean that you’ve stopped lying about the existence of “naked shorts” and the existence of synthetic AMC shares? Do you have any connection with #FTX tokenized AMC shares or knowledge of these prior to FTX’s collapse? #VotedNo

@CEOAdam, your action is too late.

You, as CEO, should have acted on the 14th day on the threshold list instead of visiting the cinema. Do you have no sense of urgency?

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<sup>255</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 923

<sup>256</sup> CEO Adam Aron on X (formerly called twitter). March 7<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1633247675867971585>

You only said this to get more yes votes, when was the last time you bought any \$AMC or \$APE shares? I'll wait.

584. On March 8<sup>th</sup>, 2023 at 1:37 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title "RE: Tracking the Vote" stating,

"Updated preliminary voting results are attached and summarized below:

Shares Voted:

**AMC 135.7 million out of 517,580,416 (26.2%)**

**APE 511.2 million out of 929,849,612 (54.9%)**

Percentage Voting "For" Proposals:

AMC 74.1%

APE 93.4%

Combined 89.4%

Eddie"<sup>257</sup>

585. On March 9<sup>th</sup>, 2023 at 1:33 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title "RE: Tracking the Vote" stating,

"Updated preliminary voting results are attached and summarized below:

Shares Voted:

**AMC 143.9 million out of 517,580,416 (27.8%)**

**APE 516.4 million out of 929,849,612 (55.5%)**

Percentage Voting "For" Proposals:

AMC 73.7%

APE 93.0%

Combined 88.8%

As I told Adam earlier, Vanguard has not submitted their vote yet. Also, the slip in percentage from yesterday is primarily due to a block of votes (1.8

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<sup>257</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 922



million AMC and 1.4 million APE) from Morgan Stanley that “Abstained”

Eddie”<sup>258</sup>

586. On March 10<sup>th</sup>, 2023 at 2:36 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc’d Aron, Keven Connor and John Merriwether with the subject title “RE: Tracking the Vote” stating,

“Updated preliminary voting results are attached and summarized below:

Shares Voted:

**AMC 157.5 million out of 517,580,416 (30.4%)**

**APE 554.9 million out of 929,849,612 (59.6%)**

Percentage Voting “For” Proposals:

AMC 72.6%

APE 91.8%

Combined 87.5%

While still overwhelming in favor, the late vote is coming in at a lower favorable rate than the earlier vote.

It still does not appear that Vanguard has voted based on DF King’s review of results.

Eddie”<sup>259</sup>

587. On March 10<sup>th</sup>, 2023, Kenny Gallagher, attorney for the AMC Defendants, effectuated service on Lead Counsel for ACER, Franchi and Munoz with AMC Defendants’ Objections and Responses to Plaintiffs’ First Request for Production of Documents by File & Serve Xpress in the consolidated action No. 2023-0215-MTZ.

588. On March 13<sup>th</sup>, 2023, the AMC Defendants filed a placeholder for a possible motion to dismiss, in the consolidated action No. 2023-0215-, with prejudice pursuant to Court of Chancery Rule 12(b)(6).

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<sup>258</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 922

<sup>259</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 921

589. On March 13<sup>th</sup>, 2023 at 5:47 pm, Eddie Gladbach drafted an email to Sean Goodman, and cc'd Aron, Keven Connor and John Merriwether with the subject title "RE: Tracking the Vote" and incorporating an image named image001.png and an excel sheet named Special Meeting – Preliminary Vote 3-13-23.xlsx, and stating,

"Updated preliminary voting results are attached and summarized below.

Broadridge's issue reporting systems have been down today for all companies, but Broadridge has confirmed that it has not affected their ability to analyze the data to determine how specific institutional holders voted. Based on the volume of votes received and the results, we think it appears Vanguard voted in favor, but cannot confirm.

Shares Voted:

**AMC 177.7 million out of 517,580,416 (34.3%)**

**APE 577.3 million out of 929,849,612 (62.1%)**

Percentage Voting "For" Proposals:

AMC 72.8%

APE 91.2%

Combined 86.9%

Based on where we are now, it does not appear likely that we will achieve the majority of outstanding necessary to approve the proposals without using the APE proportional voting mechanism. However, with the APE proportional votes, the proposals will pass with about 67% of outstanding approving.

Eddie"<sup>260</sup>

### **Manipulated March 14<sup>th</sup> 2023 Corporate Vote**

590. On March 14<sup>th</sup>, 2023, AMC convened the Special Meeting, to vote on the proposed reverse split and conversion of AMC and APE. At the time, there were 517,580,416 eligible shares of AMC's Company's Class A common stock and 929,849,612 eligible AMC Preferred Equity Units were available to vote.

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<sup>260</sup> Link: [https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91802642/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91802642/) Exhibit 37 page 921

591. “On March 14<sup>th</sup>, 2023, the Certificate Amendments “passed” at the Special Meeting. **Without the mirrored voting and the Antara Transaction, the proposals would not have passed—a fact acknowledged by AMC internally.**”<sup>261</sup>

592. Yet somehow, following the corporate vote at 1:23 pm EST, Aron memorialized the following tweet to AMC shareholders containing a misrepresentation that the vote was a landslide.

**“Today was a huge step forward for AMC. You voted YES, YES & YES! And it was a landslide vote too — 88% yes for Proposal 1, 87% yes for Proposal 2, and 87% yes for Proposal 3.** My sincerest thanks for giving AMC the tools we need to continue fighting the good fight on your behalf. Saving AMC is my professional mission. And remember that I own millions of AMC shares and APE units too. So, I very much want for AMC to succeed. I am absolutely and passionately convinced that what you approved today is in the best interests of AMC and of all our shareholders. So what happens now? We can not implement what you approved today until the litigation in Delaware courts is resolved. The next Court hearing on this matter is set for April 27, 2023. We will update stockholders when we have additional information.”<sup>262</sup>

#### **Vote Analysis**

593. Based on AMC corporate’s calculations, the votes for both AMC shares and APE units were combined to determine the final results.

594. Regarding the reverse split proposal vote AMC reported that out of approximately 929.8 million APE shares, 842,782,544 voted in favor, 80,570,613 voted against, and 6,695,864 abstained.

595. In the case of AMC shares, 128,344,709 voted in favor of the reverse split proposal, while 51,388,638 voted against, and 2,609,383 abstained. **The majority of AMC shares were not recorded as having voted for this vote.**

596. According to the reported results, every APE unit was voted and recorded, because approximately 63% of the APE share votes were voted and recorded on time, and AMC

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<sup>261</sup> Plaintiff’s brief on case 2023-0215-MTZ. Page 27. Referencing discovery doc - AMC\_00049559.

<sup>262</sup> CEO Adam Aron on X (formerly called twitter). March 14<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1635693064449667089>



corporate instructed Computer Share to vote in favor of the proposals, the remaining percentage (37%) who did not vote on time.

597. All of the following steps were needed in order for AMC to unlawfully procure their desired outcome for the March 14<sup>th</sup>, 2023 vote:

- Combine the total Yes votes for AMC, APE, the APE votes they sold to Antara (in violation of NYSE Section)
- The transfer agent mirrored Yes votes
- Violating DCGL Section 242 forcing both the AMC and APE votes to be held together instead of separately

598. An audit of the stockholder vote would have allowed for an investigation of the raw voting data, the vote totals, and would have allowed stockholders to validate that their votes were recorded correctly. Many shareholders reported not receiving the correct number of votes, and there were statistical oddities in the reported results.

599. Following the March 14<sup>th</sup>, 2023, AMC Stockholder Vote, Jordan Affholter submitted a request for the raw data regarding the vote from AMC's Investor Relations on three separate occasions: April 12<sup>th</sup>, 2023, April 20<sup>th</sup>, 2023, and May 9<sup>th</sup>, 2023. Jordan Affholter has yet to receive any response to his inquiries.

600. The absence of a response from AMC Investor Relations to Jordan Affholter's repeated requests for raw voting data following the March 14<sup>th</sup>, 2023, AMC Stockholder Vote raises concerns about AMC's transparency and its regard for its stockholders.

601. On March 14<sup>th</sup>, 2023, Judge Zurn entered a stipulation and order for the production and exchange of confidential and highly confidential information in the consolidated action No. 2023-0215-MTZ

602. On March 21<sup>st</sup>, 2023, Lead Counsel for ACER, Franchi and Munoz effectuated service on the following third party, Broadridge Financial Solutions, Inc., a proxy voting tabulator, with a subpoenas duces tecum and ad testificandum.

603. On March 22<sup>nd</sup>, 2023, the AMC Defendants in the consolidated action No. 2023-0215-MTZ, noticed the Lead Plaintiffs, ACER, Franchi and Munoz, for depositions:

**Usbaldo Munoz March 31, 2023, at 10:00 a.m. ET**  
**Anthony Franchi April 3, 2023, at 10:00 a.m. ET**  
**Allegheny County Employees' Retirement System (by a**  
**Rule 30(b)(6) designee) April 4, 2023, at 10:00 a.m. ET**

604. On March 23<sup>rd</sup>, 2023, Citigroup's analyst Jason Bazinet once again issued a sell rating on AMC with a price target of \$1.60.<sup>263</sup>

605. On March 24<sup>th</sup>, 2023 at 11:36 am, Aron tweeted out to AMC retail investors stating,

“Many Twitter reports to me indicating 9.3 trillion APEs are outstanding or we have a \$409 billion market cap. Clearly both WRONG. Either a data service inexcusably is in error or someone criminally photoshopped bogus numbers. To the extent possible, we’ll aggressively chase this.”<sup>264</sup>

606. Following Aron’s March 24<sup>th</sup>, 2023 tweet, AMC stockholders responded mocking Aron’s tweet,

So what are you going to do about it? Where is a copy of a letter or filing?

This is what you will go after. Only this ? What about the last two years. Open your eyes!

Any updates on what your legal team found after looking into photoshop crime? When they are done, maybe, you could look into the possibility that there are in fact bad actors creating synthetic shares.

Stop trying to protect hedgefunds and protect retail who saved your company!

How about aggressively cutting board salaries, suing market makers, and demanding SEC shut Dark Pools? We have you on video lying about Reverse Split intentions how about aggressively keeping your fiduciary Duties? How about FTX tokenized AMC shares? Greetings from Anguilla.

Do your fking job. We need a share count asap

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<sup>263</sup> Source: <https://investorplace.com/2023/03/amc-stock-price-predictions-will-amc-plunge-to-1-60/>

<sup>264</sup> CEO Adam Aron on X (formerly called twitter). March 24<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1639290079737704453>

607. Twenty-three minutes later, Aron retweeted his 11:36 am EST tweet stating,

“Market Watch currently showing 93.79 billion APEs outstanding. Clearly WRONG, wildly so. We are calling them now demanding this get corrected immediately. Also reviewing many other data sources to check for accuracy. So curse-word-here irresponsible that they publish false info.”<sup>265</sup>

608. AMC retail stockholders immediately responded to Aron’s 11:59 am EST tweet stating,

This is NOT misreporting, this is MARKET CORRUPTION. This is why we have asked for a share count! @CEOAdam Would love to see #AMC expose the market manipulation, including the main stream media such as @CGasparino constantly taking daily shots at #AMC We are MAD! We are not leaving, we know you know!

If only it was that easy, how are you to contact ALL stockholders and ask them to register. Just doesn't work that way. Falls back on "Computershare" who is the actual register for #AMC. They are 100% responsible they have a contract with #AMC filed with the #SEC. Someone needs to be held accountable and stop claiming "in the street shares" which are not actually counted since the Brokers "over sell repeatedly" "rinse repeat" #nakedshort options and stocks for their own benefit and income. It's called STEALING!  
#AMC #APE  
@DOJCrimDiv  
@SECEnfDirector  
@NYSE

This issue isn't a new issue with \$AMC & \$APE. It's a fact that retail shareholders collectively own an amount of shares in each, which far exceeds the # of shares or units issued by @AMCTheatres. That is what we've been saying for years, and nothing has been done about it. #AMC

AA don't you mean INVESTIGATED???? So multiple outlets are reporting the same computer "glitch" and you think it needs to be "corrected"? Did you just admit to being privy to the manipulation? Because reports like this should be investigated not covered up.

609. On March 25<sup>th</sup>, 2023 the parties in the Franchi, Munoz, and ACER matter asked former Vice Chancellor Joseph R. Slight, III, to provide facilitation and mediation services in connection with settlement discussions that the parties anticipated would likely require both

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<sup>265</sup> CEO Adam Aron on X (formerly called twitter). March 24<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1639295950580600835>



lifting of the status quo order and performance of Defendants' in the Franchi, Munoz, and ACER potential obligations to the Common Stockholders at the earliest possible dates.

610. On March 26<sup>th</sup>, 2023, Daniel Meyer, one of the Lead Counsel in the consolidated action No. 2023-0215-MTZ, gave notice, that pursuant to Delaware Chancery Court Rules 26, 30 and 45, ACER, Munoz, and Franchi will take the depositions of the following defendants in the matter:

Sean Goodman on March 30<sup>th</sup>, 2023 at 9:30 am EST and remotely  
John Merriwether on March 31<sup>st</sup>, 2023 at 8:30 am EST and remotely  
Kathy Pawlus on April 4<sup>th</sup>, 2023 at 9:30 am EST and remotely  
Adam Aron on April 6<sup>th</sup>, 2023 at 8:00 am EST and remotely

611. On March 28<sup>th</sup>, 2023 the parties in the Franchi, Munoz and ACER matter participated in a formal mediation session, with extensive follow-up negotiations over the next several days.

612. By the end of March of 2023, approximately four letters (two supporting, two opposing conversion reverse split) from purported AMC stockholders were filed on the consolidated action No. 2023-0215-MTZ docket. Frank Iacono made an application to intervene, and Judge Zurn responded to AMC shareholders by publishing a letter on March 28<sup>th</sup>, 2023, addressing concerns raised through emails sent to the judicial officer's email. Judge Zurn's letter states in part,

"This letter provides instructions for individuals interested in sharing their views on the above-captioned matter with the Court. Please note that a judicial officer's email is not the proper channel for an interested party to contact the Court. Any comments or concerns for the Court must be in letter format, contain the author's relevant contact information, include a check or money order made payable to "Register in Chancery" to cover the scanning fee of \$2.00 per page for any documents to be filed onto the case docket, and should be sent to the following address:

Register in Chancery Leonard L. Williams Justice Center  
500 North King Street, Suite 11600  
Wilmington, DE 19801

You may also contact the Register in Chancery (the clerk's office for the

Court of Chancery) at (302) 255-0544 with any additional questions."<sup>266</sup>

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<sup>266</sup> D.I. 49 for case No. 2023-0215-MTZ. Link:

[https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-)

613. On April 2<sup>nd</sup>, 2023, following adversarial and arms'-length negotiations, the parties in the Franchi, Munoz, and ACER matter executed a term sheet documenting the proposed Settlement.
614. At the time the parties, in the consolidated action No. 2023-0215-MTZ, entered into the proposed Settlement, ACER, Franchi and Munoz "were rapidly preparing to take six fact depositions and defend three depositions, in an eight-day span, with a fact discovery deadline of April 6<sup>th</sup>, 2023".<sup>267</sup>
615. "ACER, Franchi and Munoz also retained and worked closely with multiple experts on key issues in the case and expected to provide reports and testimony from Loop, a financial consulting expert, and Okapi, a proxy solicitor. Loop provided expert advice on financial aspects pertaining to the consolidated action No. 2023-0215-MTZ, including the impact of the Certificate Amendments, AMC's debt, and the valuation of the proposed settlement. Okapi provided expert advice on, inter alia, proxy solicitation, the unique issues for a company soliciting votes with a large retail base, non-routine voting, proportional and mirror voting, and the effect of the Antara Transaction on the vote on the Certificate Amendments."<sup>268</sup>
616. "Discovery commenced immediately pursuant to the Scheduling Order. After extensive negotiations over the scope of discovery, the AMC Defendants in the consolidated action No. 2023-0215-MTZ, ultimately produced, and Franchi, Munoz and ACER reviewed over 56,000 pages of documents. Franchi, Munoz and ACER also served subpoenas on four third parties: Citigroup (AMC's financial advisor); D.F. King (AMC's proxy advisor); Antara; and Broadridge (a proxy voting tabulator). Franchi, Munoz and ACER also engaged in extensive negotiations with the third parties over the scope of production, resulting in production of 2,500 pages of documents when the term sheet was signed. The AMC Defendants served requests for production on Franchi, Munoz and ACER who collected and produced over 3,700 pages of documents."<sup>269</sup>
617. On February 28<sup>th</sup>, 2023, Aron made the following representation to AMC shareholders during AMC's earnings call:

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0215/IN\_RE\_AMC\_ENTERTAINMENT\_HOLDINGS\_INC\_STOCKHOLDER\_LITIGATION/914004  
33/

<sup>267</sup> D.I. 206 for case No. 2023-0215-MTZ page 36

<sup>268</sup> D.I. 206 for case No. 2023-0215-MTZ page 37

<sup>269</sup> D.I. 206 for case No. 2023-0215-MTZ page 65

“We believe such litigation is without merit, that our actions have been totally lawful and consistent with our charter, and we will vigorously defend our position in this matter.”<sup>270</sup>

618. Aron's representation to AMC stockholders on February 28<sup>th</sup>, 2023, asserting the belief that the consolidated action No. 2023-0215-MTZ was without merit and his intention to vigorously defend the position, contrasts with the subsequent premature settlement, within less than 35 days.

619. **The settlement occurred without Aron or any AMC Board member being deposed, raising questions about the consistency of Aron's representations and actions.** This deviation from the initial stance raises concerns about the level of commitment to defending the matter as previously communicated to shareholders.

620. On April 2<sup>nd</sup>, 2023 at 2:06 pm EST, Aron updated AMC stockholders via Twitter regarding his March 24<sup>th</sup>, 2023 tweet, stating

“Update 1 week later on the incorrect posts of our market cap and # of AMC shares and APE units. Sheer \*x\*%!\*(7 letters, rhymes with ducking) incompetence at irresponsible data services. After much prodding by us, main source now fixed, may take a week to roll through the rest.”<sup>271</sup>

621. Once again AMC retail investors took to Twitter to call out Aron's April 2<sup>nd</sup>, 2023 tweet stating,

I believe that was the correct data and you had them change it back to the fake data.

I don't trust you Adam! You are a liar!

So what you're saying is there isn't any manipulation or “naked shorting” correct? We beg to differ.

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<sup>270</sup> AMC Entertainment Holdings, Inc. (AMC) CEO Adam Aron on Q4 2022 Results - Earnings Call Transcript. Seeking Alpha. Posted on Feb. 28, 2023 <https://seekingalpha.com/article/4583134-amc-entertainment-holdings-inc-amc-q4-2022-earnings-call-transcript> Accessed on May 11, 2023

<sup>271</sup> CEO Adam Aron on X (formerly called twitter). March 24<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1639295950580600835>



Now that the legal team won't be tied up going after photoshop crime, maybe they could look into this.

Way to stick up for your hedge fund buddies. Get that real market cap posted to the suppressed one by you and your buddies. No one believes it was a glitch but obviously you will try to convince us it was, you are such a fraud!

What ever happened to the FTD?? You know, the synthetics you claim don't exist. When are you going to call out the spoofing done almost everyday by you buddies the hedges. When are you going to quit. Cause you know. You've lost all confidence from you share holder's.

Hey Adam, how is it that your stock went from 72-73 down to 5 bucks? We know what happened and what you've been doing Adam. Such a shame. Keep blowing smoke up our asses

622. On April 3<sup>rd</sup>, AMC filed a Form 8-K announcing the parties, to the consolidated action No. 2023-0215-MTZ, reached a proposed settlement.

623. Also on April 3<sup>rd</sup>, 2023, Gregory Varallo, Lead Counsel for Franchi, Munoz, and ACER, filed an unopposed motion to lift the Status Quo Order, focusing on Franchi, Munoz, and ACER's insistence that if the Status Quo Order was lifted the Class should receive its Settlement Consideration as promptly thereafter as possible.

624. Incorporated into the filing of Franchi, Munoz, and ACER's motion to lift the Status Quo Order was Managing Director with Loop Capital Financial Consulting Services Patrick Ripley's affidavit, which testifies to the calculations used to determine the value of the proposed share issuances to the Common Stockholders based on

- (i) 519,192,390 issued and outstanding shares of common stock of AMC,
- (ii) 974,190,794 issued and outstanding AMC Preferred Equity Units ("APEs"), and
- (iii) the closing prices of Common Stock and APEs on each of March 27, March 28, March 29, March 30, and March 31, 2023.

Mr. Ripley's assumptions for these analyses include that AMC Common Stockholders will receive an issuance based on the 1:7.5 ratio.

625. On April 5<sup>th</sup>, 2023, Judge Zurn denied Franchi, Munoz, and ACER's motion to lift the Status Quo Order, noting the absence of support for immediate performance of the Settlement's

core exchange of benefits. The parties offered no good cause to lift the Status Quo Order. While Franchi, Munoz, and ACER acknowledge that “the parties agree that the stipulated Status Quo Order should be lifted,” and suggest that the proposed settlement is contingent on lifting the stipulated status quo order, such agreement does not rise to good cause in view of Chancery Court’s Rule 23 obligations.

626. Judge Zurn continues, that it is well settled that the Court of Chancery’s role in approving class action settlements under Court of Chancery Rule 23 **“is intended to balance policies favoring settlement with concerns for due process” and arises “from the fiduciary nature of representative actions,” particularly “the need to assure that the interests of absent class members or stockholders have been fairly represented, and the necessity of guarding against the ever-present potential for surreptitious buyouts of representative plaintiffs at the expense of those whom they purport to represent.”**<sup>272</sup>

627. On April 5<sup>th</sup>, 2023, AMC Shareholder Diego Vega’s March 31<sup>st</sup>, 2023 letter, addressed to Judge Zurn, was published on the consolidated action No. 2023-0215-MTZ docket. Diego Vega’s letter highlights several key points:

- The AMC Board is imposing significant dilution, amounting to billions of shares, on stockholders without obtaining their consent through a vote
- The lack of majority approval on the Reverse Stock (RS) vote
- The questionable mirrored voting clause
- and combining votes of separate voting classes breaches DGCL 242(b)(2), raising legal concerns regarding the integrity of the voting process <sup>273</sup>
- In addition, Diego Vega's letter references a recent ruling by Judge Zurn in Case No. 2022-0132-MTZ, Garfield vs. Boxed, Inc., highlighting potential parallels or precedents relevant to the current situation

628. On April 13<sup>th</sup>, 2023, Brian Tuttle’s April 7<sup>th</sup>, 2023 letter, addressed to Judge Zurn, was published on the consolidated action No. 2023-0215-MTZ docket. Brian Tuttle’s letter highlights several key points:

- He had been in contact with Lead Counsel Michael Barry, now representing ACER, about filing a potential grievance against AMC regarding the APE issuance
- On February 16<sup>th</sup>, 2023, he emailed Aron, giving him notice that the proposals for the upcoming Reverse Split/Conversion vote violated DGCL 242

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<sup>272</sup> D.I. 69 for Case 2023-0215-MTZ. Link:

[https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC.\\_STOCKHOLDER\\_LITIGATION/91465033/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC._STOCKHOLDER_LITIGATION/91465033/)

<sup>273</sup> D.I. 67 for Case 2023-0215-MTZ



- On February 20<sup>th</sup>, 2023, he sent an email notice to the NYSE that AMC “breached Rule 312 of the NYSE Company Manual by selling over 20% of the company’s Voting Power, in a Private Sale, below the Minimum Price threshold set forth in section 312 of the NYSE Company Manual, without shareholder approval”<sup>274</sup>
- On February 23<sup>rd</sup>, 2023, he sent a follow up email notice “informing the NYSE AMC was also: “in breach of NYSE American Company Guide Section 122” due to the issuance of “Super Voting Stock””<sup>275</sup>
- On April 5<sup>th</sup>, 2023, he initiated a change.org petition for shareholders to petition to opt out of the proposed settlement. Throughout the case, that petition gained significant traction, accumulating over 7,000 signatures as of February 6<sup>th</sup>, 2024
- He also mentioned that Lead Counsel Michael Barry had “allegedly” not represented him or the class appropriately on a complaint against Hycroft mining

629. On April 14<sup>th</sup>, 2023, Gregory Varallo, Lead Counsel for ACER, Franchi and Munoz, filed a letter on the consolidated action No. 2023-0215-MTZ docket, and gave Judge Zurn notice that,

“We write to advise the Court that the Parties in the above-referenced action have reached a proposed settlement, subject to the Court’s approval. Accordingly, the Parties respectfully request a status conference with the Court next week to discuss timing and notice for presentation of the proposed settlement. In light of the proposed settlement, the Parties also respectfully request that the Court adjourn the litigation deadlines in the Stipulation and Scheduling Order entered on March 2, 2023 (Transaction ID 69256893) pending the Court’s full review of and decision whether to approve the proposed settlement.

We are available should Your Honor have any questions.

Sincerely,

/s/ Gregory V. Varallo”<sup>276</sup>

630. Of note, ACER, Munoz and Franchi never briefed an injunction motion nor did the AMC Defendants brief their motion to dismiss. Additionally, there were **no depositions conducted**.

631. Under the settlement, AMC agreed to distribute 6,922,565 shares of common stock to existing common stockholders, at a ratio of one share per every 7.5 shares held after a 10-to-1

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<sup>274</sup> D.I. 87 for Case 2023-0215-MTZ

<sup>275</sup> D.I. 87 for Case 2023-0215-MTZ

<sup>276</sup> D.I. 92 for Case 2023-0215-MTZ



reverse split but before the conversion. ACER, Franchi and Munoz argued that this “benefit” was worth over \$129 million, but its practical effect was marginal. Without the settlement, the class—existing common stockholders—would own 34.28% of AMC’s equity after the conversion; with the settlement that percentage increased to 37.15%. For that bargain price, AMC’s Board took the power stockholders had twice refused to give: the ability to repeatedly dilute common stockholders.

632. Despite AMC being aware and in receipt of Jon Merriman’s May 27<sup>th</sup>, 2022 emails and its attached prospectuses (Nasdaq stocks - OPGN, AVGR, AGRX all lost well over 50% of value post preferred share offering and reverse split at the time of the emails), on April 16<sup>th</sup>, 2023, Aron still had the audacity to tweet the following two tweets to AMC stockholders, who had huge concerns about the reverse split, giving them notice that,

“Some misunderstand the 1-for-10 reverse stock split, approved by 87% of March 14 votes, saying we are “stealing 90%” of your shares. You forget that the share price rises 10-fold at that time. EXACTLY the same as trading ten \$1 bills for one \$10 bill. Either way, you have \$10.”<sup>277</sup>

“In your comments, some fear that after a RS, short pressure could cause price to go back down. But you neglect that it is EVERY bit as easy to short a stock priced at \$3.00 as it is on a stock priced at \$30. A RS itself has NOTHING to do with any subsequent prices afterwards.”<sup>278</sup>

633. On April 17<sup>th</sup>, 2023, Jordan Affholter’s April 8<sup>th</sup>, 2023 letter, addressed to Judge Zurn, was published on the consolidated action No. 2023-0215-MTZ docket. Jordan Affholter’s letter highlights several key points:

- Individual shareholders own the vast majority of AMC stock, accounting for approximately 80-90% or more of the total ownership
- The results of the Say Technologies Vote imply that there are a massive number of synthetic shares, potentially multiple times the float

“While those numbers are not an official share count, that is more than enough of a sample size to provide strong evidence that AMC stock has been over-sold or over-shortened on the market multiple times the share float. Right after seeing those numbers, as part of their fiduciary responsibility to shareholders AMC leadership

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<sup>277</sup> CEO Adam Aron on X (formerly called twitter). April 16<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1647664901869936645>

<sup>278</sup> CEO Adam Aron on X (formerly called twitter). April 16<sup>th</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1647673936107143170>

should have immediately started an investigation into the existing shares in order to protect shareholder value.”<sup>279</sup>

- Robinhood buying Say Technologies a day after the vote
- APE not being a dividend but just more dilution
- The irregularities and lack of validation surrounding the March 14<sup>th</sup>, 2023 AMC Reverse Split and Conversion vote.

634. Jordan Affholter concluded his April 8<sup>th</sup>, 2023 letter by informing Judge Zurn that,

“As a shareholder, I am requesting that there be a hold on any further reverse split for AMC and a hold on any merger for the AMC and APE shares until a transparent share count be conducted by a third party that allows individual shareholders to validate the shares they own.”<sup>280</sup>

635. On April 21<sup>st</sup>, 2023, Judge Zurn published her letter on the docket pertaining to consolidated action No. 2023-0215-MTZ, giving the party attorneys and interested parties notice that a teleconference call regarding settlement scheduling and logistics in this matter is confirmed for Tuesday, April 25<sup>th</sup>, 2023, beginning at 9:15 a.m.

636. On April 24<sup>th</sup>, 2023, Jordan Affholter’s April 18<sup>th</sup>, 2023 motion to intervene and letter addressed to Judge Zurn was published on the court docket pertaining to consolidated action No. 2023-0215-MTZ. The letter reads in part,

“As a shareholder, I have requested the raw data to the March 14, 2023 shareholder call votes, but have not received any response back from AMC corporate. As I mentioned in my first letter, AMC is a unique stock where individual shareholders (retail) own the vast majority of the outstanding shares. According to Fintel data, Allegheny owns under 1% of AMC common stock shares. I do not believe the proposal by AMC and Allegheny is in the best interest of the majority of AMC shareholders.....I am requesting that there be a hold on any further reverse split for AMC, any merger for the AMC and APE shares, and any settlement on this case until the following actions are taken:

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<sup>279</sup> D.I. 95 for Case 2023-0215-MTZ

<sup>280</sup> DI 95 for Case 2023-0215-MTZ. Link:

[https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/915599](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/915599)  
85/

-First, I am requesting the legality regarding the issuance of APE be investigated (specifically in reference to NYSE rules: Section 312.03 and Delaware Law Section 242(b)(2)).

-Secondly, I am requesting a transparent share count be conducted by a third party that allows individual AMC and APE shareholders to validate the shares they own in order to protect shareholder value.

-Thirdly, I am requesting that AMC and APE shareholders be given access to review and validate the raw voting data from March 14, 2023 AMC share holder call to ensure their votes were counted fairly.”<sup>281</sup>

#### **April 25<sup>th</sup>, 2023 Telephonic Conference Call**

637. On April 25<sup>th</sup>, 2023, Judge Zurn conducted a telephonic conference call with Lead Counsel for ACER, Franchi and Munoz and AMC’s Defense attorneys, to discuss and resolve the following outstanding agenda items:

- Appointment of special master
- Scheduling order
- Logistics of settlement hearing
- and stockholder notice

638. A listen-only audio feed of this conference call was provided by CourtScribes, and was made available through the following public access lines:

Public Line 1: (774) 267-3617

Public Line 2: (617) 829-7274

Public Line 3: (774) 267-7226

Public Line 4: (774) 267-7876

Public Line 5: (774) 267-7689

639. The telephonic conference call lasted approximately fifty minutes.

640. The final agenda item that Judge Zurn addressed was whether notice by mail is required.

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<sup>281</sup> D.I. 144 for Case 2023-0215-MTZ. Link:

[https://www.docketalarm.com/cases/Delaware\\_State\\_Court\\_of\\_Chancery/2023-0215/IN\\_RE\\_AMC\\_ENTERTAINMENT\\_HOLDINGS\\_INC\\_STOCKHOLDER\\_LITIGATION/91602309/](https://www.docketalarm.com/cases/Delaware_State_Court_of_Chancery/2023-0215/IN_RE_AMC_ENTERTAINMENT_HOLDINGS_INC_STOCKHOLDER_LITIGATION/91602309/)



641. Judge Zurn opened up the discussion citing precedence and stating that the Court is **hesitant to forego notice by mail.**

642. Delaware Chancery Rule 23 and the 14<sup>th</sup> Amendment to the United States Constitution, The Due Process Clause, mandates that each stockholder be given notice with respect to the scheduled settlement hearing –

**“[i]n any class action maintained under paragraph (b)(3), the Court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.”**

643. Subsequently, on behalf of the AMC Defendants, Defense Attorney John Neuwirth (“Mr. Neuwirth”) made the following representation to Judge Zurn stating in part:

“by **our estimation** the number of beneficial stockholders is **approximately** 3.8 million ..... the cost of mailing to that many stockholders is approximately \$2.9 million dollars..... Which is significant.”<sup>282</sup>

644. Applying Mr. Neuwirth’s numerical values, it would cost 76 cents per post card.

645. Mr. Neuwirth then attempted to present his case, emphasizing the cost-effectiveness of electronic methods and addressing precedence in support of his argument.

646. The telephonic conference call concluded **without** Judge Zurn ruling on stockholder notice.

647. Subsequent to the April 25<sup>th</sup>, 2023, telephonic conference call, Judge Zurn executed an order appointing Corinne Elise Amato, Esq, (“Corinne Amato”) special master with the charge of reviewing any and all stockholder motions to intervene, as well as any oppositions and replies thereto, and making recommendations as to whether they should be granted. Corinne Amato shall be compensated for her time at her customary hourly rate of \$800. At her discretion, Corinne Amato may make use of partners, counsel, associates, and support staff within her firm who may bill at their customary hourly rates. Corinne Amato also will be reimbursed for her expenses. ACER, Franchi and Munoz and the AMC Defendants will each bear half of the expenses up to \$20,000. In her report regarding stockholder objections to the proposed settlement, Corinne Amato will make a specific recommendation regarding an allocation of responsibility for the expenses in excess of \$20,000.

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<sup>282</sup> D.I. 217 Transcript of 4-25-2023 Telephonic Status Conference for case 2023-0215-MTZ.

648. On April 26<sup>th</sup>, 2023, Corinne Amato accepted the appointment as the Special Master.

649. On April 27<sup>th</sup>, 2023, Judge Zurn published her letter on the Court docket giving the parties in the consolidated action No. 2023-0215-MTZ matter notice that,

“Dear Counsel and Interested Parties:

As I indicated at Tuesday's telephonic scheduling conference, this matter is in limbo pending the parties' filing of the settlement stipulation, proposed scheduling order, and proposed notice, which have been unusually delayed since the second proposed settlement was announced on April 14, 2023. Counsel represented on Tuesday that the documents would be filed on Tuesday or Wednesday of this week. Based on that representation, and to permit consideration of the defendants' request for an accelerated timeline for notice, briefing, objections, and the Special Master's report and recommendation on the objections, I offered June 29 and 30 as potential settlement hearing dates. The documents must be filed promptly to maximize this Court's ability to accommodate the defendants' request for an accelerated schedule. I also explained on Tuesday's call that once the schedule and form of notice are finalized, the Court would provide AMC stockholders with specific instructions about when and how to respond to the settlement terms. I would have liked to provide those instructions by now.

The settlement documents must be filed by the close of business today in order for the Court to continue to hold June 29 and 30 as potential hearing dates. If counsel does not file the settlement documents by close of business today, they should contact Chambers for new hearing dates.

Sincerely,  
/s/ Morgan T. Zurn

Vice Chancellor”<sup>283</sup>

650. On April 27<sup>th</sup>, 2023, the party attorneys in the consolidated action No. 2023-0215-MTZ complied with Judge Zurn's April 27<sup>th</sup>, 2023 instructions and filed the following documents on the Court docket:

- Stipulation and Agreement of Compromise, Settlement, and Release

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<sup>283</sup> D.I. 163 for Case 2023-0215-MTZ

- [Proposed] Scheduling Order with respect to Notice and Settlement Hearing
- Notice of Pendency of Stockholder Class Action and Proposed Settlement, Settlement Hearing, and Right to Appear
- Summary Notice of Pendency of Stockholder Class Action and Proposed Settlement, Settlement Hearing, and Right to Appear
- [Proposed] Order and final judgment

651. On April 27<sup>th</sup>, 2023, the party attorneys in the consolidated action No. 2023-0215-MTZ drafted and published the following letter to Judge Zurn on the Court docket,

“Dear Vice Chancellor Zurn:

Enclosed with this letter are copies of the parties’ executed Stipulation and Agreement of Compromise, Settlement, and Release (the “Stipulation”), including the exhibits to the Stipulation. With respect to the questions regarding notice that Your Honor raised during the April 25, 2023 teleconference with the Court, **mailing post cards (sic) with a summary notice to all approximately 3.8 million beneficial holders of AMC common stock is estimated to cost approximately \$1.7 million. Therefore, Defendants respectfully submit that mailed post card (sic) notice is impractical and unnecessary here given the high degree of class engagement, the multiple modern electronic methods of notice Defendants have proposed, and the high cost to the company of mailed notice.** Plaintiffs remain in non-opposition if the Court agrees with the notice currently proposed in the Stipulation, but are not affirmatively joining Defendants in this request. Defendants respectfully submit that the following Court of Chancery precedents, which are attached, support the notice currently proposed in the Stipulation:

- **Rux v. Meyer, No. 11577-CB (Oct. 23, 2019)** (Scheduling Order) (allowing Sirius XM to provide notice of a settlement to stockholders via a Form 8-K, its website, social media posts, and an earnings release when “a mailing would involve printing and mailing of an estimated 340,000 notices at cost of several hundred thousand dollars (plus brokerage search costs)”);
- **Franchi v. Barabe, No. 2020-0648-KSJM (May 3, 2022)** (Scheduling Order) (allowing Selecta Biosciences to provide notice of a settlement to its stockholders via a Form 8-K, its website, and social media, where the cost of mailing notices to its stockholders “would be roughly \$30,000, which is meaningful to Selecta”);
- **City of Monroe Emps.’ Ret. Sys. v. Murdoch, No. 2017-0833-AGB (Nov. 28, 2017)** (Scheduling Order) (“given the significant amount of press attention” the settlement received, the Court did “not require a



mailing,” instead allowing Twenty First Century Fox to provide notice via a Form 8-K, the company’s website, and a summary notice in the Wall Street Journal and over PR Newswire);

- **Kistenmacher v. Atchison et al., No. 10437-VCS (Mar. 12, 2020)** (Scheduling Order) (permitting SeaWorld to provide notice via a Form 8-K, the company’s website, plaintiff’s counsel’s websites, and in GlobeNewswire and Investors’ Business Daily); and

- **Lao v. Dalian Wanda Group Co., Ltd. et al., No. 2019-0303-JTL (Sept. 28, 2022)** (Scheduling Order) (allowing AMC to provide supplemental notice via a Form 8-K, the company’s website, and the company’s Twitter account after the initial notice was provided via those means and mailed to 11,514 AMC stockholders of record).

If the Court disagrees with Defendants and believes that mailed post card notice is more appropriate, the parties respectfully request that the Court direct the parties to that effect when the Court enters the scheduling order filed with the Stipulation. The parties will of course proceed, however Your Honor would prefer, **but Defendants do ask that their position on the cost versus benefit of the post card notice be considered.**<sup>284</sup>

652. On April 28<sup>th</sup>, 2023, Judge Zurn addressed the party attorneys' April 27<sup>th</sup>, 2023 letter in the consolidated action No. 2023-0215-MTZ. Judge Zurn’s letter provided instructions on how to correct and perfect the five documents submitted to the court docket on April 27<sup>th</sup>, 2023. Additionally, Judge Zurn's letter responded to the party attorneys' objection related to the postcard notice, outlining specific points as part of the response.

“Second, I wish to address the defendants’ pending request to deliver notice to stockholders electronically and forego notice by mail. Consistent with that request, paragraph F(10) on page 22 of the Stipulation and paragraph 11 of the Scheduling Order provide for dissemination of the notice through publication of a Form 8-K, posting on AMC Entertainment Holdings, Inc.’s (“AMC” or the “Company”) website, transmittal over PR Newswire, posting on AMC’s Twitter account, and posting on the respective websites and social media accounts for the plaintiffs’ lead counsel (“Lead Counsel”). Certain of these means of delivery are reiterated in the Notice.

Court of Chancery Rule 23 requires that “[i]n any class action maintained under paragraph (b)(3), the Court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members

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<sup>284</sup> D.I. 166 for Case 2023-0215-MTZ

who can be identified through reasonable effort.” It is standard practice in this Court to require dissemination of a settlement notice by mail, often supplemented by publication through various mediums. As the defendants point out, the Court has deviated from that practice at times, but that the defendants identified only a handful of examples over nearly fifteen years reflects such deviations are the exception and not the rule.

The defendants have explained that due to the size of AMC’s stockholder base, notice by even postcard mail would be particularly expensive. Beyond that, the parties have made no attempt to explain to the Court why or how they chose the particular suggested forms of notice, and why they are the best practicable under these novel, if not unique, circumstances. Nor have they offered any concrete reason why this settlement approval process must be truncated at the expense of stockholder notice.

I am sympathetic to cost concerns, but the size of AMC’s stockholder base cuts both ways. The operative complaint pleads that AMC welcomed a stockholder base that includes a significant number of retail investors, which is consistent with the letters the Court has received and reviewed to date. While at least some of these stockholders appear highly engaged, the operative complaint relies on the premise that a large portion of the Company’s stockholders are passive and do not vote. This premise is inconsistent with the idea that posting a Form 8-K would give actual notice to those stockholders. To my mind, the large number of retail investors weighs in favor of notice by mail, rather than against it. The cost concern is less impactful when Lead Counsel has touted their belief that the “give” to stockholders in the settlement exceeds \$100 million. I appreciate the cost of notice by mail here is higher than usual, but in my view, that burden accompanies selling large quantities of stock to retail investors.

Postcard notice will require some adjustments to the schedule. If the parties wish to keep June 29 and 30 for the settlement hearing, I propose, and ask you to confer on, the following schedule:

- May 4, 2023: opening brief(s)
- May 31, 2023: objections to the plaintiffs’ counsel
- June 7, 2023: any reply brief(s)
- June 21, 2023: Special Master’s report
- June 28, 2023: exceptions to the Special Master’s report

This schedule depends on prompt initiation of postcard notice, **and will only work if postcards will generally be delivered by May 24, 2023.** Acceptance of this



schedule constitutes a representation that postcards can be expected to be delivered by then. I have committed to delivering a written opinion on the settlement terms rather than a bench ruling at the hearing, so a June 28 deadline for exceptions should not meaningfully slow my ruling. Alternatively, we can move the hearing back.”<sup>285</sup>

653. During the months of April and May 2023, dozens of AMC stockholders wrote to the court expressing their concerns about the manipulation of AMC stock and how a reverse split would further harm stockholders already affected by the actions of bad actors in the market and/or AMC leadership. These letters were filed on the consolidated action docket No. 2023-0215-MTZ. In addition, Objectors Brian Tuttle, Alex Mathew, and Jordan Affholter filed motions to intervene.

654. On May 1<sup>st</sup>, 2023, at 2:51 pm EST, Aron tweeted out to AMC shareholders, giving them notice that,

“What the DUCK !!!!! I am getting multiple reports that Robinhood briefly posted today that AMC filed for bankruptcy. How can companies like Robinhood do this? So ludicrous, so wrong, so irresponsible. On Friday, we report Q1 earnings, and will announce **our sizable cash position.**”<sup>286</sup>

655. Subsequently, at 4:36 pm EST, Aron tweeted out to AMC shareholders, giving them notice that,

“I am so Ducking angry about this. They are either incompetent or evil, and either is absolutely inexcusable. Obviously, there is no truth to their postings. Outrageous behavior. I have already asked our lawyers if we can sue the Dastards. #IncompetentEvil”<sup>287</sup>

656. On May 1<sup>st</sup>, 2023, the Scheduling Order to Notice the Settlement Hearing (“Scheduling Order”) with respect to consolidated action docket No. 2023-0215-MTZ was entered making May 8<sup>th</sup>, 2023 the Notice Date.

657. Pursuant to the Scheduling Order, no later than May 8<sup>th</sup>, 2023, the Notice Administrator, Strategic Claims Services, **was mandated to mail a postcard notice to all record holders**

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<sup>285</sup> D.I. 175 for Case 2023-0215-MTZ

<sup>286</sup> CEO Adam Aron on X (formerly called twitter). May 1<sup>st</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1653109955107655680>

<sup>287</sup> CEO Adam Aron on X (formerly called twitter). May 1<sup>st</sup>, 2023. X.com  
Link: <https://twitter.com/CEOAdam/status/1653136268040241153>



of AMC Common Stock and request that, within five (5) business days of such request, any record holders of AMC Common Stock who are nominees or custodians for beneficial holders provide either physical addresses or email addresses for all such beneficial owners to which the postcard notice can be sent or request copies of the postcard notice from Strategic Claims Services to mail to such beneficial owners.

658. On May 2<sup>nd</sup>, 2023, Jordan Affholter published his May 2<sup>nd</sup>, 2023 letter motion on the consolidated action No. 2023-0215-MTZ docket via the File and Serve application. The letter motion gave Judge Zurn notice that,

“I submit this letter to give this Court notice about the above referenced events and that this Court should take judicial notice and conduct a misrepresentation hearing and subsequently move for sanctions against the AMC Defendants and their attorneys pursuant to Rules of the Court of Chancery of the State of Delaware, Rule 11(b) – Representations to Court. On April 25<sup>th</sup>, 2023, during a telephonic conference call, attorney for the AMC Defendants’ Mr. John Neuwirth made the following representation to the Court with respect to overall timing for a settlement hearing:

- It remains important for the company AMC to be in a position to raise cash and to do it as soon as possible
- AMC’s desire to continue to bolster cash reserves
- Because of the desire to raise cash whether fast schedule could be truncated a bit – notice to the class going out at least 45 days before the hearing date instead of 60 days
- Notice be accomplished by electronic means (such as 8K and AMC’s website) and not by mailing
- **There are an “estimated” 3.8 million AMC shareholders.**

Six days later, Defendant Adam Aron (“Defendant Aron”) publicly tweeted the below tweet in response to Robinhood, a commission-free stock trading and investing application, who briefly posted on May 1<sup>st</sup>, 2023, that AMC filed for bankruptcy.

What the DUCK !!!!! I am getting multiple reports that Robinhood briefly posted today that AMC filed for bankruptcy. How can companies like Robinhood do this? So ludicrous, so wrong, so irresponsible. On Friday, we report Q1 earnings, and will announce **our sizable cash position.**

In summation, Defendant Aron's public tweet cuts against Mr. Neuwirth's argument reflecting two conflicting representation (sic) in the span of six days. And thus, I am asking that this Court grant my application for a misrepresentation hearing in order to prevent fraud from being committed against the Court and AMC's shareholders. Additionally, I am requesting that Mr. Neuwirth clarify his claim regarding the "estimated" 3.8 million shareholders. Why is this number estimated? Shouldn't AMC be able to share the exact number? Are these shareholders unique individual people or total brokerage accounts holding AMC? Additionally, I am requesting that Mr. Neuwirth clarify his claim regarding the "estimated" 3.8 million shareholders by providing the raw data file containing the exact number of shareholders and shares held by each shareholder to the Court and AMC's shareholders in order for the claim to be transparently verified. In light of the aforementioned reasons, I respectfully request that this Court either consider this letter as a motion, or alternatively, issue an order sua sponte, directly for the misrepresentation hearing and for AMC to share the raw shareholder data with the Court and AMC's shareholders."<sup>288</sup>

659. On May 3<sup>rd</sup>, 2023, Lead Counsel, in the consolidated action No. 2023-0215-MTZ, submitted an opposition to Jordan Affholter's motion to intervene, which requested a share count and validation of the March 14<sup>th</sup>, 2023 stockholder vote. Despite claiming to represent the putative class members, Lead Counsel had not conducted an investigation into a transparent share count or validation of the March 14<sup>th</sup>, 2023 vote. Both of these actions had the potential to enjoin the AMC Defendants from effectuating the results of the March 14<sup>th</sup>, 2023 corporate vote.

660. On May 3<sup>rd</sup>, 2023, Jordan Affholter also published his May 3<sup>rd</sup>, 2023 letter addressed to Judge Zurn via the File and Serve application. This action provided notice to Judge Zurn, Franchi, Munoz, and ACER's attorneys, as well as AMC's defense attorneys, regarding key typos in the stockholders notice letter about when letters are due for those who wish to attend the settlement hearing in person.<sup>289</sup>

661. Subsequent to Mr. Affholter's May 3<sup>rd</sup>, 2023 letter being published, a little over an hour later, Judge Zurn published an updated letter from the Court to stockholders, which corrected the "clerical error". "This letter superseded the Court's May 1<sup>st</sup>, 2023 letter to stockholders and set the following timelines:

- Settlement Hearing set for June 29<sup>th</sup> and 30<sup>th</sup>, 2023

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<sup>288</sup> D.I. 188 for Case 2023-0215-MTZ

<sup>289</sup> D.I. 189 for Case 2023-0215-MTZ

- The Chancery Court will not be issuing a ruling on the settlement at the hearing, but will be issuing a written decision at a later date
- Objections must be submitted to ACER, Franchi and Munoz's counsel and must be received by May 31<sup>st</sup>, 2023, by email to: [AMCSettlementObjections@blbglaw.com](mailto:AMCSettlementObjections@blbglaw.com)  
OR by mail to: AMC Investor Submissions c/o John Mills, Esq. Bernstein Litowitz Berger & Grossman LLP  
1251 Avenue of the Americas New York, NY 10020
- The plaintiffs and defendants may file briefs responding to any or all objections by June 7, 2023
- Any objector wanting to make a court appearance at the Settlement Hearing needs to fill out an in Person Settlement Interest Form. The form must be completed and mailed back to the Court by May 31<sup>st</sup>, 2023 at the following address:

Register in Chancery Court of Chancery of  
the State of Delaware New Castle County  
Leonard L. Williams Justice Center 500  
North King Street Wilmington, Delaware  
19801

- Corrine Amato will file a report and recommendations on the objections no later than June 21, 2023
- Exceptions to the Corrine Amato's report should be filed with the Court, not sent to the plaintiffs' counsel. Exceptions must be received and docketed by June 28, 2023 for the Court to consider them. For instructions on how to submit exceptions, and the required filing fee, please refer to the Register in Chancery's April 14, 2023, letter. Correspondence that does not comport with these instructions will not be considered.”<sup>290</sup>

#### **Lead Plaintiffs and AMC Defendants File Their Settlement Briefs**

662. On May 4<sup>th</sup>, 2023, attorneys from both parties in the consolidated action No. 2023-0215-MTZ, complied with Judge Zurn's instructions by timely filing their briefs supporting the proposed settlement. Lead Counsel Daniel Meyer filed his transmittal affidavit, incorporating 37 exhibits, spanning 928 pages, and placed them under seal. AMC's defense attorney Kevin Gallagher filed his transmittal affidavit, incorporating 28 exhibits, spanning 731 pages, which was also initially filed under seal.

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<sup>290</sup> D.I. 190 for Case 2023-0215-MTZ